

Commonwealth of Massachusetts Berkshire, ss. Superior Court

COMMONWEALTH VS. DARRIEN GOETZENDANNER

CHARGE		DEFENDANTS (ADDITIONAL)	
Aggravated Rape (Ch. 265, sec. 22(a))		*Charles K. Stephenson, Esq. (Appeal) P.O. Box 288, S. Hadley, MA 01075 Tel. (413) 467-7227 James E. Crane, Esq. 220 Main St., Springfield, MA 01103 Tel. (413) 447-8837 James E. Crane, Esq. 220 Main St., Springfield, MA 01103 Tel. (413) 447-8837 George B. Crane, Esq. Appointed - 85 East Street, Pittsfield, MA 01203	
Joseph F. Krowski, Esq. 30 Cottage Street Brockton, MA 02301 Tel. (508) 587-9701		TRIENAH A. MEYERS, Esq. (UPCS) (Assigned) 439 North St., Second Fl., Pittsfield, MA 01204 Tel. (413) 447-7942 James E. Crane, Esq. (APPEAL) 935 Main St., Springfield, MA 01103 Tel. (413) 746-9257	
-1992-			
March 20	(1)	Indictment, filed.	
March 23	(2)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.	
March 23	-	Writ of habeas corpus issued in hand to deputy sheriff.	
March 26	(3)	Notice of assignment of counsel of Trienah A. Meyers, Esq., for the defendant, as to indictment #920378 through #920384, filed.	
March 26	(4)	Notice of appearance of counsel of Trienah A. Meyers, Esq., for the defendant, as to indictment #920378 through #920384, filed.	
March 26	-	Defendant arraigned and plead Not Guilty. Defendant ordered to recognize in the sum of \$5,000.00 cash or surety without prejudice, pre-trial conference date 4/16/92, (Ford, J).	
		\$40.00 legal counsel fee waived.	
March 26	(5)	Commonwealth's certificate of discovery as to indictment #920378 through #920384, filed.	
March 26		Mittimus for failure to recognize issued in hand to deputy sheriff.	
March 26	(6)	Mittimus, returned and filed.	
March 26	(7)	Writ of habeas corpus, returned and filed.	
July 10	(8)	Defendant's motion to impound, filed.	
July 10	(9)	Defendant's motion for reconsideration of bail, filed.	
July 10	(10)	Defendant's motion to dismiss/motion for speedy trial, filed.	
July 13	--	Defendant's motion to impound, motion allowed up to and including July 21, 1992. Copies certified to attorney Myers	
July 20	(11)	Commonwealth's petition for writ of habeas corpus ad defendum, filed	
July 20	-	Writ of habeas corpus as defendum issued in hand to deputy sheriff.	
July 21	(12)	Writ of habeas corpus, returned and filed.	
July 21	-	Defendant's motion to dismiss DENIED/Defendant's motion for speedy trial ALLOWED-August trial list, (Simons, J.).	

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July 24	(13)	Attorney Meyers's motion to withdraw, filed.
July 27	(14)	Affidavit of counsel, filed.
July 27	--	Attorney Meyers's motion to withdraw, motion allowed. (Simons J.) Copies certified to all attorneys.
July 27	(15)	Notice of assignment of counsel of Francis X. Spina for defendant, filed.
July 27	(16)	Notice of appearance of Francis X. Spina for defendant, filed.
July 31	(17)	Writ of habeas corpus returned and filed.
August 17	(18)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
August 17	-	Writ of habeas corpus issued in hand to deputy sheriff.
August 18	(19)	Writ of habeas corpus, returned and filed.
August 18	(20)	Pre-trial conference report, filed.
September 15	(21)	Defendant's motion for laboratory reports filed (in nos. 920378-920384)
September 15	(22)	Defendant's motion to examine all physical evidence filed. (in Nos. 920378-384)
September 15	(23)	Defendant's motion for exculpatory evidence filed. (in Nos. 920378-384)
September 15	(24)	Defendant's motion for production of documents/exculpatory evidence filed. (in nos. 920378-384)
September 15	(25)	Defendant's motion requiring the Commonwealth to furnish the defendant with exculpatory evidence pertaining to allegations of prior sexual/physical assaults filed (in Nos. 920378-384)
September 15	(26)	Defendant's motion for release of order of impoundment filed. (in nos. 920378-384)
September 15	(27)	Defendant's motion for copies of all statements of defendant filed. (in nos. 920378-384).
September 15	(28)	Defendant's motion for probation record of defendant filed (in nos. 920378-384)
September 15	(29)	Defendant's motion for hospital reports filed. (in nos. 920378-384)
September 15	(30)	Defendant's motion for copies of all witness statements filed. (in Nos. 920378-384)
September 15	(31)	Defendant's motion for copies of all police reports filed. (in nos. 920378-384)
September 15	(32)	Defendant's motion for disclosure of all promises, rewards and inducements to commonwealth witnesses filed (in nos. 920378-384)
September 15	(33)	Defendant's motion for probation records of Commonwealth witnesses filed in No.s 920378-384)
September 15	(34)	Defendant's motion for booking slip filed. (in nos. 920378-384)
September 15	(35)	Defendant's motion for examination of booking information and personal property seized during booking filed (in nos. 920378-384)
September 15	(36)	Defendant's motion to examine physical evidence and scientific test results and analysis on any and all evidence filed. (in nos. 920378-384)
September 16	(37)	Defendant's ex-parte motion for approval of costs for an expert pathologist and fees for an expert chemist, filed as to indictments #920378 through #920384.
September 16	(38)	Defendant's motion for copies of all police notes as to indictments #920378 through #920384, filed.
September 16	(39)	Defendant's motion for discovery as to indictments #920378 through #920384, filed.
September 16	(40)	Defendant's motion to examine physical evidence presented to the Grand Jury as to indictments #920378 through #920384, filed.

Commonwealth

VS.

NO. 920378 CONTINUE
Darrien Goetzendanner

September 16	(41)	Defendant's motion for relief from prejudicial joinder as to indictments #920378 through #920384, filed.
September 16	(42)	Defendant's motion to dismiss as to indictments #920378 through #920384, filed.
September 16	(43)	Defendant's motion for examination of physical evidence as to indictments #920378 through #920384, filed.
October 21	(44)	Defendant's motion to dismiss as to indictments #920378 through #920384, with certificate of service, filed.
October 27	(45)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
October 27	-	Writ of habeas corpus issued in hand to deputy sheriff.
October 28	(46)	Writ of habeas corpus, returned and filed.
October 28	(47)	Attorney Spina's motion to withdraw as counsel, filed and motion allowed. Attorney George Crane appointed. (Simons J.) Copies certified to all attorneys.
October 28	(48)	Notice of appearance of George B. Crane for defendant, filed. Attorney Spina withdrawal allowed by the court. Attorney George Crane appointed. (Simons J.)
October 28	(49)	Notice of assignment of counsel of George Crane for defendant, filed.
October 29	(50)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
October 30	-	Writ of habeas corpus issued in hand to deputy sheriff.
November 6	(51)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
November 19	-	Writ of habeas corpus issued in hand to deputy sheriff.
November 20	(52)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
November 23	-	Writ of habeas corpus issued in hand to deputy sheriff.
November 24	(53)	Commonwealth's motion for reciprocal discovery filed and allowed, (Simons, J.).
January 12	(54)	Commonwealth's petition for writ of habeas corpus ad defendum, filed.
January 12	-	Writ of habeas corpus issued in hand to deputy sheriff.
January 13	(55)	Writ of habeas corpus, returned and filed.
January 13	(56)	Commonwealth's motion for order for taking of blood samples and saliva filed (Allowed, (Ford, J.))
January 13	(57)	Affidavit of Gwen Pino filed.
January 13	(58)	Order for taking of Blood Sample and Saliva entered, (Ford, J.). Certified copy to D.A.'s office.
Jan. 29	(59)	Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.
Jan. 29	(60)	Defendant's motion for suggested questions to the jury asked on an individual basis filed.
Jan. 29	(61)	Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.

NO920378

CONTINUED

Commonwealth

VS. Darrien Goetzendanner

- 1993 -	-	
Feb. 1	-	Defendant's motion for suggested questions to the jury on an individual basis-allowed in part, (Simons, J.)
Feb. 1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
Feb. 1	-	The following jurors impanelled today-1-2 Robin Scoloro; 1-12 Therese Callahan; 2-11 Helen Sommer;
		2-12 Cheryl Lanoue; 3-12 Stetson Adams; 4-1 Dudley Bahlman; 4-5 Mary Berti; 4-6 Frank Stillman; 4-10
		Michael Kystig; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement
		process 2/2/93.
Feb. 1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Deft's rights saved.
Feb. 1	-	Defendant's motion in limine re: prior convictions-allowed as to so much of the record as consists
		of Assault and Battery w/dangerous weapon and assault with intent to kill-denied as to balance of
		record, (Simons, J.).
Feb. 1	(62)	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed.
Feb. 2	-	Court will conduct voir of witness at appropriate time, (Simons, J.).
		Jury impaneling continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury
		sworn. Court appoints 4-1 Dudley Bahlman foreman.
Feb. 2	(63)	List of jurors filed.
Feb. 3	-	Indictments read-preliminary instruction given to the jury. Commonwealth makes opening
Feb. 3	-	Trial continued before (Simons, J.).
Feb. 3	-	Voire dire held of expert witness re: Battered Women's Syndrome. After voire dire-court will allow
		Commonwealth to offer testimony, (Simons, J.).
Feb. 4	-	Trial continued before (Simons, J.).
Feb. 4	-	Defendant made oral motion to strike testimony of expert witness-oral motion denied. Deft's rights
		saved, (Simons, J.).
Feb. 4	-	Commonwealth rests.
Feb. 4	(64)	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83;
		allowed as to nos. 920384 and 920668, (Simons, J.).
Feb. 4	-	Defendant rests.
Feb. 5	(65)	List of witnesses filed.
Feb. 5	(66)	List of exhibits filed.
Feb. 5	(67)	Defendant's request for jury instructions filed.
Feb. 5	-	Final arguments of counsel-Deft. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held-
		10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni &
		quinn sworn with jury. Jury began deliberating 11:23 a.m.
Feb. 5	(68)	Jury question #1 filed. 12:22 p.m.
Feb. 5	(69)	Jury question #2 filed.
Feb. 5	(70)	Verdict of Guilty returned, affirmed and filed. Jury discharged. 2:20 p.m.
Feb. 5	-	Sentence imposed: 20 to 30 years, M.C.I. Cedar Junction, with credit of 320 days for time spent in
		confinement awaiting disposition, to be served from and after the expiration of all previous sentences
		which the defendant has been ordered to serve, (Simons, J.). Deft. advised of Rule 64 & 65 rights of
		appeal.
Feb. 5	-	Mittimus issued in hand to deputy sheriff.

Commonwealth

VS. Darrien Goetzendanner

1993 -		
Feb. 11	(71)	Defendant's notice of appeal from verdict filed.
Feb. 11	(72)	Defendant's notice of appeal from sentence filed.
Feb. 11	(73)	Defendant's motion to revise and revoke filed.
Feb. 11	(74)	Defendant's motion for free transcript filed.
Feb. 11	(75)	Defendant's request for transcript filed.
Feb. 11	(76)	Defendant's motion for a new trial filed.
Feb. 11	(77)	Defense counsel's motion to withdraw and for appointment of new counsel for appeal filed.
March 3	-	Notice of assignment of counsel for appellate purposes mailed to Denise Simonini, CPCS.
March 3	(78)	Order for transcript entered. Copy in hand to Brenda Levardi, court reporter.
June 16	(79)	Notice of assignment of counsel of James E. Methé, Esq. for appeal for the defendant as to indictments #920378 through #920383, filed.
July 14	(80)	Order from the Appellate Division of the Superior Court Department stating that the judgments imposing said sentences stand and that said appeal be and is hereby dismissed as to indictment #920378-#920382, entered (Travers and McDaniel, JJ). Certified copy mailed to the counsels.
August 18	(81)	Notice of appearance of James E. Methé, Esq., for the defendant for appeal purposes as to indictments #920378 through #920383, filed.
September 21	(82)	Notice of assembly of record on appeal, entered. Copies certified to all attorneys and to appeals court. Also to appeals court the following. Original statement to be used in appeal entries, Notice of appeal, list of exhibits, two (2) copies of docket sheets and original and one (1) copy of trial transcript.
- 1994 -		
June 1	(83)	Notice of appearance of Charles K. Stephenson, Esq. for the defendant for appeal as to indictments #920378 through #920383, filed.
June 1	(84)	Defendant's motion for a new trial with affidavits, exhibits and memorandum, as to indictments #920378 through #920383 (bound together), filed.
June 1	(85)	Defendant's motion for discovery in connection with his motion for new trial with supporting affidavits as to indictments #920378 through #920383 (bound together), filed.
August 29	--	Hearing held in Greenfield before (Dohoney, J.), Commonwealth has until September 20, 1994 to file memorandum-Defendant has 10 days after receipt of Commonwealth's memorandum to file theirs (Dohoney, J.).
September 26	(86)	Commonwealth's memorandum in opposition to defendant's motion for new trial on indictments #920378 through #920383, filed.
October 4	-	Letter from Darrien Goetzendanner, received.
October 5	(87)	Defendant, Darrien Goetzendanner's motion to strike, filed.
October 5	(88)	Defendant, Darrien Goetzendanner's writ of habeas corpus ad testificandum, filed.

Commonwealth

VS.

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1994- October 11	(89)	Defendant's reply memorandum on his motion for a new trial, filed.
October 11	(90)	Defendant's motion for an order barring destruction or release of evidence, filed.
November 8	--	Letter from Darrien Goetzendanner re: motion for new trial, received.
December 5	--	Defendant's Pro Se Motion to Strike - DENIED (Dohoney, J.). Certified copy to counsel for defendant and to Ass't. District Attorney, Anne Kendall.
December 5	--	Defendant's Pro Se Writ of Habeas Corpus Ad Testification - DENIED (Dohoney, J.). Certified copy to counsel for defendant and to Ass't District Attorney, Anne Kendall.
December 5	--	Defendant's Motion for an Order Barring Destruction or Release of Evidence - ALLOWED (Dohoney, J.). Certified copy to counsel for defendant and to Ass't District Attorney, Anne Kendall.
December 5	--	Defendant's Motion for a New Trial - DENIED. Memorandum of Decision to follow (Dohoney, J.). Certified copy to counsel for defendant and to Ass't District Attorney, Anne Kendall.
December 5	(91)	Memorandum of Decision and Order on defendant's motion for a new trial, entered (Dohoney, J.). Certified copy mailed to counsels.
December 12	(92)	Defendant's notice of appeal from denial of his motions for new trial and discovery, filed.
December 12	(93)	Defendant's motion for a free transcript of the hearing on his motion for a new trial, filed.
December 15	-	Defendant's motion for a free transcript of the hearing on his motion for a new trial-motion ALLOWED (Dohoney, J.). Certified copy to counsels and to the Stenographer.
December 15	(94)	Order for free transcript of motion for a new trial, entered (Dohoney, J.). Certified copy to counsels and to the Stenographer.
December 15	(95)	Status report and motion to consolidate appeals from the Appeals Court, - ALLOWED. The appeal of the denial of the defendant's motion for new trial is consolidated with the instant appeal without the necessity of an assembly of the record. The trial court clerk's office is to forward updated copies of the docket and the transcript. The stay is vacated. The appellant's brief and appendix are due on or before 1/23/95, filed. Certified copy to counsels.
December 27	--	Copy of order for transcript of motion for a new trial mailed to Maureen Talbot, Stenographer c/o Philbin & Associates.
1995 -		
January 5	(96)	Order for transcript of defendant's motion for new trial heard on 8/29/94 in Franklin Superior Court before Judge James P. Dohoney, entered. Certified copies mailed to Taura Sampson Germann, Steno c/o Philbin & Associates and Attorney Charles K. Stephenson.
March 14	(97)	Defendant's motion for forensic testing at government expense, filed.
April 4	-	Defendant's motion for forensic testing at government expense-motion ALLOWED (Dohoney, J.). Certified copy

Commonwealth

VS. Darrien Goetzendanner

NO. 9203/8

CONTINUED

- 1995 -		
June 6	(98)	Defendant's Motion to Compel government to Provide Access to Evidence for Testing, with certificate of service, filed.
September 6	(99)	Defendant's RENEWED Motion to Compel Government to provide access to evidence for testing, filed.
September 6	(100)	Defendant's motion for an order that he present for hearing, filed.
September 6	(101)	Defendant's request for hearing, with certificate of service, filed.
October 3	(102)	Defendant's motion for exemplars of the complainant's head hair, filed.
October 3	-	Letter from Charles K. Stephenson, Esq. requesting if hearing necessary that defendant be habeas from MCI Norfolk, with certificate of service, received.
October 30	(103)	Commonwealth's Opposition to defendant's motion for exemplar of victim's hair, filed.
October 30	--	Defendant's motion for exemplars of the complainant's head hair - Motion ALLOWED (Carhart, J)
October 30	(104)	Certified copies mailed to attorneys.
October 30	--	Commonwealth's Motion for Discovery, filed.
October 30	--	Commonwealth's Motion for Discovery - If the defendant seeks to use the results of the DNA testing, the reports shall be provided to the Commonwealth (Carhart, J) Certified copies mailed to attorneys.
- 1996 -		
March 7	--	Received transcript of motion held in Franklin County on defendant's motion for a new trial held before (Dohoney J.) on 8/29/94.
March 7	--	Original and one (1) copy of transcript of hearing on defendant's motion for a new trial mailed to appeals court. Also copies issued to District Attorney and Defense Attorney Charles K. Stephenson. (see letter to Appeals Court in File)
- 1997 -		
July 11	(105)	Rescript from Appeals Court, Ordered: Judgments affirmed. Order denying motion for new trial affirmed entered. Certified copies mailed to attorneys.
- 1998 -		
February 6	--	Letter from CPCS Post-Conviction Assignment Coordinator that we will be notified if counsel should be appointed, received.
March 30	(106)	Notice of Assignment of Counsel of Joseph Krowski, Esq. of 30 Cottage Street, Brockton, MA 02401 for the defendant for purposes of New Trial Motion, filed.
- 2000 -		
May 8	(107)	Mittimus, returned and filed.
August 17	(108)	Defendant's Motion for a New Trial, filed.
August 17	(109)	Affidavit in Support of Defendant's Motion for a New Trial, filed.
August 17	(110)	Memorandum in Support of Defendant's Motion for a New Trial, filed.
December 7	(111)	Supplemental Memorandum in Support of Defendant's Motion for a New Trial, with certificate of service, filed.

Attest

Case 1:05-cv-11553-JLT Document 11 Filed 10/03/2001 Page 2	Page 2001-	11	11
February 28 (113)	Copy of Commonwealth's Reply to Defendant's Second Motion for New Trial, filed.		
October 9 - (114)	Defendant's Motion for a New Trial-DENIED (Velis, J). See Memorandum and Order.		
October 11 (114)	Memorandum and Decision on Defendant's Motion for a New Trial, entered (Velis, J). Certified copy mailed to parties on 10/11/2001.		
November 5 (115)	Notice of Appeal to certain opinions, rulings, directions and judgments as to the Courts decision on the Defendant's Motion for an Evidentiary Hearing and Motion for New Trial dated October 9, 2001, filed.		

ASPT AL.

NO 920379, et

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH VS. DARRIEN GOETZENDANNERJAMES H. HENRY, JR.
COURT REPORTER

10/3/05

10/3/05

CHARGE	DEFENDANTS (ADDITIONAL)
Aggravated Rape (Ch. 265, sec. 22(b))	
	<p style="text-align: center;">ATTORNEY FOR DEFENDANT</p> <p>Trienah A. Meyers, Esq. (CPCS) (Assigned) 139 North St., Second Floor, Pittsfield, MA 01201 Tel. (413) 447-7342</p>
<p>-1992- March 20 March 26 -1993-</p>	<p>(1) Indictment, filed. Defendant arraigned and plead Not Guilty. Defendant released on personal recognizance with pre-trial conference 4/16/92 as to indictment #920378 through #920384, filed.</p>
<p>Jan. 29 (2)</p>	<p>Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.</p>
<p>Jan. 29 (3) Jan. 29 (4)</p>	<p>Defendant's motion for suggested questions to the jury asked on an individual basis filed. Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.</p>

Set Back

COMMONWEALTH VS

Harvey 6057230 04/08/00

43-		
993-		
1	-	Defendant's motion for suggested questions to the jury on an individual basis-allowed in part, (Simons, J.).
1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
1	-	The following jurors impanelled today-1-2 Robin Scoloro; 1-12 Therese Callahan; 2-11 Helen Sommer; 2-12 Cheryl Lanoue; 3-17 Stetson Adams; 4-1 Dudley Bahlman; 4-5 Mary Berti; 4-6 Frank Stillman; 4-10 Michael Kyrtig; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement process 2/2/93.
1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Deft's rights saved.
1	-	Defendant's motion in limine re: prior convictions-allowed as to so much of the record as consists of Assault and Battery w/dangerous weapon and assault with intent to kill-denied as to balance of record, (Simons, J.).
1	-	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed.
2	-	Court will conduct voir of witness at appropriate time, (Simons, J.).
2	-	Jury impanelled continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury sworn. Court appoints 4-1 Dudley Bahlman foreman.
2	-	List of jurors filed. Preliminary instruction given to the jury. Commonwealth makes opening.
3	-	Trial continued before (Simons, J.).
3	-	Voir dire held of expert witness re: Battered Women's Syndrome. After voir dire-court will allow Commonwealth to offer testimony, (Simons, J.).
4	-	Trial continued before (Simons, J.).
4	-	Defendant made oral motion to strike testimony of expert witness-oral motion denied. Deft's rights saved, (Simons, J.).
4	-	Commonwealth rests.
4	-	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83; allowed as to nos. 920384 and 920668, (Simons, J.).
4	-	Defendant rests.
5	-	List of witnesses filed.
5	-	List of exhibits filed. Jury instructions filed.
5	-	Defendant's request for counsel-Deft. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held-10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni & Quinn sworn with jury. Jury began deliberating 11:23 a.m.
5	-	Jury question #1 filed. 12:22 p.m.
5	-	Jury question #2 filed.
5	-	Verdict of Guilty returned, affirmed and filed. Jury discharged. 2:20 p.m.
5	-	Sentence imposed: 20 to 30 years, M.G.I. Cedar Junction, with credit of 320 days for time spent in confinement awaiting disposition, to be served from and after the expiration of all previous sentences which the defendant has been ordered to serve, (Simons, J.). Deft. advised of Rule 64 & 65 rights of appeal.
5	-	Mittimus issued in hand to deputy sheriff.

APPEAL

NO 920380

2/1

COMMONWEALTH VS. DARRIEN GOETZENDANNER

CHARGE		DEFENDANTS (ADDITIONAL)	
Kidnapping (Ch. 265, sec. 26)			
		ATTORNEY FOR DEFENDANT	
-1992- March 20	(1)	Indictment, filed.	
Jan. 29	2	Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.	
Jan. 29	3	Defendant's motion for suggested questions to the jury asked on an individual basis filed.	
Jan. 29	4	Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.	

See Bail

COMMONWEALTH VS

DAREEN BOERZENDANNE

1993		
Feb. 1	-	Defendant's motion for suggested questions to the jury on an individual basis allowed in part, (Simons, J.).
Feb. 1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
Feb. 1	-	The following jurors impanelled today-1-2 Robin Scollaro; 1-12 Therese Callahan; 2-11 Helen Sommer; 2-12 Cheryl Lanoue; 3-12 Stetson Adams; 4-1 Dudley Bahman; 4-5 Mary Berti; 4-6 Frank Stillman; 4-10 Michael Kyrtas; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement process 2/2/93.
Feb. 1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Deft's rights saved.
Feb. 1	-	Defendant's motion in limine re: prior convictions-allowed as to so much of the record as consists of assault and battery w/dangerous weapon and assault with intent to kill-denied as to balance of record, (Simons, J.).
Feb. 1	(5)	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed.
Feb. 1	-	Court will conduct voir of witness at appropriate time, (Simons, J.).
Feb. 2	-	Jury impanelled continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury sworn. Court appoints 4-1 Dudley Bahman foreman.
Feb. 2	(6)	List of jurors filed.
Feb. 2	(6)	Indictments read-preliminary instruction given to the jury. Commonwealth makes opening.
Feb. 3	-	Trial continued before (Simons, J.).
Feb. 3	-	Voir dire held of expert witness re: Battered Women's Syndrome. After voir dire-court will allow Commonwealth to offer testimony, (Simons, J.).
Feb. 4	-	Trial continued before (Simons, J.).
Feb. 4	-	Defendant made oral motion to strike testimony of expert witness-oral motion denied. Deft's rights saved, (Simons, J.).
Feb. 4	-	Commonwealth rests.
Feb. 4	(7)	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83; allowed as to nos. 920384 and 920668, (Simons, J.).
Feb. 4	-	Defendant rests.
Feb. 5	(8)	List of witnesses filed.
Feb. 5	(9)	List of exhibits filed.
Feb. 5	(10)	Defendant's request for jury instructions filed.
Feb. 5	-	Final arguments of counsel-Deft. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held-10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni & Quinn sworn with jury. Jury began deliberating 11:23 a.m.
Feb. 5	(11)	Jury question #1 filed. 12:22 p.m.
Feb. 5	(12)	Jury question #2 filed.
Feb. 5	(13)	Verdict of Guilty returned, affirmed and filed. Jury discharged. 2:20 p.m.
Feb. 5	-	Sentence imposed: 8 to 10 years, M.C.I. Cedar Junction with credit of 320 days for time spent in confinement awaiting disposition, to be served concurrently with the sentence imposed this day on indictment no. 920379.
May 2000	-	Appellatus, returned and filed
Feb. 5	(14)	Witnesses issued in hand to deputy sheriff.

ME-ERL

NO 920981 22

Commonwealth of Massachusetts
 Commonwealth vs. DARRIEN GOETZENDANNER
 Superior Court

2/11/93
 2/24/93

CHARGE	DEFENDANT'S (ADDITIONAL)
Assault and Battery By Means Of A Dangerous Weapon (Ch. 265, sec 15A)(b)	
	ATTORNEY FOR DEFENDANT
-1992- March 20 -1993-	(1) Indictment, filed.
Jan. 29 (2)	Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.
Jan. 29 (3)	Defendant's motion for suggested questions to the jury asked on an individual basis filed.
Jan. 29 (4)	Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.

See back

NO. 920381 CONTINUED

COMMONWEALTH VS

Barrien Goetzendanner

1993 -		
Feb. 1	-	Defendant's motion for suggested questions to the jury on an individual basis--allowed in part, (Simons, J.).
Feb. 1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
Feb. 1	-	The following jurors impanelled today--1-2 Robin Scoloro; 1-12 Therese Callahan; 2-11 Helen Sommer; 2-17 Cheryl Lanoue; 3-12 Stetson Adams; 4-1 Dudley Bahlman; 4-5 Mary Bert; 4-6 Frank Stillman; 4-10 Michael Kustig; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement process 2/2/93.
Feb. 1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Def't's rights saved.
Feb. 1	-	Defendant's motion in limine re: prior convictions--allowed as to so much of the record as consists of Assault and Battery w/dangerous weapon and assault with intent to kill--denied as to balance of record, (Simons, J.).
Feb. 1	(5)	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed. Court will conduct voir of witness at appropriate time, (Simons, J.).
Feb. 2	-	Jury impaneling continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury sworn. Court appoints 4-1 Dudley Bahlman foreman.
Feb. 2	(6)	List of jurors filed. Indictments read--preliminary instruction given to the jury. Commonwealth makes opening.
Feb. 3	-	Trial continued before (Simons, J.).
Feb. 3	-	Voir dire held of expert witness re: Battered Women's Syndrome. After voir dire--court will allow Commonwealth to offer testimony, (Simons, J.).
Feb. 4	-	Trial continued before (Simons, J.).
Feb. 4	-	Defendant made oral motion to strike testimony of expert witness--oral motion denied. def't's rights saved, (Simons, J.).
Feb. 4	-	Commonwealth rests.
Feb. 4	(7)	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83; allowed as to nos. 920384 and 920668, (Simons, J.).
Feb. 5	(8)	Defendant rests. Defendant's request for jury instructions filed. List of witnesses filed. List of exhibits filed.
Feb. 5	(9)	Defendant's request for jury instructions filed. Final arguments of counsel--Def't. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held--10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni & Quinn sworn with jury. Jury began deliberating 11:23 a.m.
Feb. 5	(10)	Jury question #1 filed. 12:22 p.m.
Feb. 5	(11)	Jury question #2 filed.
Feb. 5	(12)	Verdict of Guilty returned, affirmed and filed. Jury discharged. 2:20 p.m.
Feb. 5	-	Sentence imposed: 6 to 10 years, M.C.I. Cedar Junction, with credit of 320 days for time spent in confinement awaiting disposition, to be served concurrently with the sentence imposed this day on indictment no. 920379.
May 8	(14)	Appellatus returned and filed. Mitterius issued in hand to deputy sheriff.

APPEAL

NO ORIGIN

COMMONWEALTH OF MASSACHUSETTS

Probate, ss.

Superior Court

COMMONWEALTH VS.

DARRIEN GOETZENDANNER

R/A 1/2/15

CHARGE

DEFENDANTS (ADDITIONAL)

Assault And Battery By Means Of A Dangerous Weapon
(Ch. 265, sec. 15A)(b)

ATTORNEY FOR DEFENDANT

-1992-
March 20
-1993-

(1)

Indictment, filed.

Jan.

29

Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.

Jan.

29

Defendant's motion for suggested questions to the jury asked on an individual basis filed.
Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.

See Back

COMMONWEALTH VS

Darien Boerzendann

Feb.	1	-	Defendant's motion for suggested questions to the jury on an individual basis-allowed in part. (Simons, J.)
Feb.	1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
Feb.	1	-	The following jurors impanelled today-1-2 Robin Scoloro; 1-12 Therese Callahan; 2-11 Helen Sommer; 2-12 Cheryl Lanoue; 3-12 Stetson Adams; 4-1 Dudley Bahlan; 4-5 Mary Berti; 4-6 Frank Stillman; 4-10 Michael Kustig; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement process 2/2/93.
Feb.	1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Def't's rights saved.
Feb.	1	-	Defendant's motion in limine re: prior convictions-allowed as to so much of the record as consists of Assault and Battery w/dangerous weapon and assault with intent to kill-denied as to balance of record, (Simons, J.).
Feb.	1	-	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed. Court will conduct voir of witness at appropriate time, (Simons, J.).
Feb.	2	-	Jury impanelment continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury sworn. Court appoints 4-1 Dudley Bahlan foreman.
Feb.	3	-	Trial continued before (Simons, J.).
Feb.	3	-	Voir dire held of expert witness re: Battered Women's Syndrome. After voir dire-court will allow Commonwealth to offer testimony, (Simons, J.).
Feb.	4	-	Trial continued before (Simons, J.).
Feb.	4	-	Defendant made oral motion to strike testimony of expert witness-oral motion denied, def't's rights saved, (Simons, J.).
Feb.	4	-	Commonwealth rests.
Feb.	4	-	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83; allowed as to nos. 920384 and 920668, (Simons, J.).
Feb.	4	-	Defendant rests.
Feb.	5	-	List of witnesses filed.
Feb.	5	-	List of exhibits filed.
Feb.	5	-	Defendant's request for jury instructions filed.
Feb.	5	-	Final arguments of counsel-Def't. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held-10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni & Quint sworn with jury. Jury began deliberating 11:23 a.m.
Feb.	5	-	Jury question #1 filed. 12:22 p.m.
Feb.	5	-	Jury question #2 filed.
Feb.	5	-	Verdict of Guilty returned, affirmed and filed. Jury discharged. 2:20 p.m.
Feb.	5	-	Sentence imposed. 3 to 5 years, M.C.J. Cedar Junction, with credit of 320 days for time spent in confinement awaiting disposition, to be served concurrently with the sentence imposed this day on indictment no. 920379.
May	8	-	Appeal. Returned and filed. 11:11 a.m. (Simons, J.). Def't. advised of Rule 64 & 65 rights of Williams, returned in hand to deputy sheriff.

APPEAL

COMMONWEALTH OF MASSACHUSETTS

Superior Court

COMMONWEALTH VS.

DARRIEN GOETZENDANNER

R/A
7/2/12

CHARGE

DEFENDANTS (ADDITIONAL)

Assault And Battery (Ch. 265, sec. 13A)

ATTORNEY FOR DEFENDANT

-1992-

March 20

(1)

Indictment, filed.

- 1993 -

Jan. 29

Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the jury photographs of the victim filed.

Jan. 29

Defendant's motion for suggested questions to the jury asked on an individual basis filed.

Jan. 29

Defendant's motion in limine to preclude the Commonwealth from impeaching the defendant's credibility with evidence of prior convictions filed.

See Back

COMMONWEALTH VS

Barrin

10877 on 8/1/00

Feb. 1993 -		
Feb. 1	-	Defendant's motion for suggested questions to the jury on an individual basis allowed in part, (Simons, J.).
Feb. 1	-	Trial commenced before (Simons, J.). Court orders fourteen jurors impanelled.
Feb. 1	-	The following jurors impanelled today-1-2 Robin Sculforo; 1-12 Therese Callahan; 2-11 Helen Sommer; 2-12 Cheryl Lanoue; 3-12 Stetson Adams; 4-1 Dudley Bahlman; 4-5 Mary Bertli; 4-6 Frank Stillman; 4-10 Michael Kystig; 5-1 Jody DiSanti; 5-4 David Storie; 5-13 Edward Arnold. Court to continue impanellement process 2/2/93.
Feb. 1	-	Defendant's motion in limine re: photos of victim denied, (Simons, J.). Def't's rights saved.
Feb. 1	-	Defendant's motion in limine re: prior convictions-allowed as to so much of the record as consists of Assault and Battery w/dangerous weapon and assault with intent to kill-denied as to balance of record, (Simons, J.).
Feb. 1	-	Commonwealth's memorandum re: testimony to be offered as to expert on Battered Women's Syndrome filed.
Feb. 2	-	Court will conduct voir of witness at appropriate time, (Simons, J.).
Feb. 2	-	Jury impanelment continued. The following jurors seated today 1-11 Elsie Thomas; Kathleen Bowen. Jury sworn. Court appoints 4-1 Dudley Bahlman foreman.
Feb. 2	-	List of jurors filed.
Feb. 3	-	Indictments read-preliminary instruction given to the jury. Commonwealth makes opening.
Feb. 3	-	Trial continued before (Simons, J.).
Feb. 3	-	Voire dire held of expert witness re: Battered Women's Syndrome. After voire dire-court will allow Commonwealth to offer testimony, (Simons, J.).
Feb. 4	-	Trial continued before (Simons, J.).
Feb. 4	-	Defendant made oral motion to strike testimony of expert witness-oral motion denied. def't's rights saved, (Simons, J.).
Feb. 4	-	Commonwealth rests.
Feb. 4	-	Defendant's motion for required finding of not guilty filed. Denied as to nos. 920378-79-80-81-82-83; allowed as to nos. 920384 and 920668, (Simons, J.).
Feb. 4	-	Defendant rests.
Feb. 5	-	List of witnesses filed.
Feb. 5	-	List of exhibits filed.
Feb. 5	-	Defendant's request for jury instructions filed.
Feb. 5	-	Final arguments of counsel-Def't. 9:21-9:47; Comm. 9:47-10:14; Judge's instructions to the jury held-10:28-11:18; Jurors 5-1 DiSanti and 5-4 Storie withdrawn as alternates; Officers Martin, Galvagni & Quinn sworn with jury. Jury began deliberating 11:23 a.m.
Feb. 5	-	Jury question #1 filed. 12:22 p.m.
Feb. 5	-	Jury question #2 filed.
Feb. 5	-	Verdict of Guilty returned. Affirmed and filed. Jury discharged. 2:20 p.m.
Feb. 5	-	Sentence imposed. Case placed on file there being no objection by the defendant, (Simons, J.).
Feb. 5	-	appeal.
Feb. 5	-	Def't. advised of Rule 64 & 65 rights of



PLEASE TYPE
SIGN WITH BALL POINT PEN ONLY — E R DOWN

7215 ☐

COMMONWEALTH OF MASSACHUSETTS
Parole Board

Region <u>5</u>	District <u>5</u>
Institution Number C 49446	
SID Number	

WARRANT FOR PERMANENT CUSTODY (STATE)	Name of Parolee Darren Goetzendanner
--	--

Date of Birth 1-13-65	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Race <input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Other	This warrant for permanent custody is issued by the Parole Board in accordance with chapter 127 section 149 of the Massachusetts General Laws.
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To any officer authorized to serve criminal process in the Commonwealth of Massachusetts: you are required to arrest the parolee and convey him/her to MCI Cedar Junction. To the superintendent of said institution: you are hereby required to receive the prisoner and safely keep him/her until the expiration of sentence or until otherwise discharged according to law.

REASON FOR WARRANT FOR PERMANENT CUSTODY:

Above named parolee has violated a condition(s) of his/her parole.

Chairman or Parole Board Member	Date Warrant Issued 3-31-92
---------------------------------	---------------------------------------

Signature of Arresting Officer	Date Arrested
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RETURN
OF
SERVICE

Mail to:

Warrant Unit
Massachusetts Parole Board
27-43 Wormwood Street
Boston, MA 02210-1606

By virtue of this warrant I certify that the above named person has been arrested and placed in custody at:

Institution
MCI Cedar Junction

Effective Date of Return

3-31-92 254

Signature of Officer Making Return

Stephen Verme

Title
**Special State
Police Officer
I. P.O.**

Date Returned
2-5-93

PB-WPCS. 5/1/87

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss.

Superior Court Department
of the Trial Court
Nos. 92-0378 thru 84
and 92-0668

COMMONWEALTH OF MASSACHUSETTS

v.

DARRIEN GOETZENDANNER

TRIAL HELD BEFORE THE HONORABLE WILLIAM W.
SIMONS AT THE BERKSHIRE COUNTY SUPERIOR COURT
PITTSFIELD, MASSACHUSETTS, ON FEBRUARY 5, 1993.

(VOLUME V)

APPEARANCES:

DISTRICT ATTORNEY'S OFFICE, 42 West Street,
Pittsfield, MA 01201, representing the
Commonwealth

BY: ANN M. KENDALL, ASSISTANT DISTRICT ATTORNEY

GEORGE CRANE, ESQUIRE, 85 East Street,
Pittsfield, MA 01201, representing the
Defendant

Brenda L. LeVardi
Court Reporter

1500 Main Street
Springfield, MA 01115
Tel: (413) 733-4078

P.O. Box 402
Pittsfield, MA 01102
Tel: (413) 499-2231

PHILBIN & ASSOCIATES

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1 THE COURT: If there's
2 guidelines available, they may be made available
3 to counsel and then I'll see them.

4 (A recess was taken)

5 (Sentencing)

6 MS. KENDALL: May we hear now
7 the sentencing in the matter of the Commonwealth
8 vs. Darrien Goetzendanner? Your Honor, the
9 victim, Renee Smith, is present in court and as
10 been all week, and I think she has a few things
11 she would like to say to the Court.

12 THE COURT: Yes, okay.

13 MS. SMITH: There are a couple
14 things I would like to say to everyone. And the
15 first thing I want to say is what I went through
16 on that day, and what I have continued to go
17 through since that day, for me has been so real.
18 The fear that I have inside is still very real,
19 and the emotions I have been through and continue
20 to go through everyday are also real. The other
21 thing I want to say is, I don't want Darrien to
22 ever be able to do this to me again or any other
23 woman ever again. And I know for me it's going

1 to take a very long time to be able to work
2 through all this with my fear and emotions.
3 Thank you.

4 MS. KENDALL: Your Honor, you
5 heard through evidence that was presented at
6 trial, the vicious nature of these crimes
7 committed by this defendant. You heard about
8 also, through some of the testimony, some of the
9 effect it had on her. And she was able to
10 articulate for you today the continuing effect it
11 has had on her. This is a very vicious, depraved
12 act that he committed that day.

13 Mr. Goetzendanner, as you will
14 see through probation, has a prior record which
15 also indicates viciousness. He's got prior
16 convictions for armed robbery, assault and
17 battery with a dangerous weapon, assault with
18 intent to kill. My understanding from having
19 spoken with Parole Officer Paul Metallo is that
20 Mr. Goetzendanner --

21 THE COURT: I didn't see the
22 armed robbery. Is there an assault with intent
23 to rob?

1 MS. KENDALL: My understanding
2 in any event, Your Honor, from speaking with Paul
3 Metallo is, he shot somebody in order to rob them
4 of their property. People and their property and
5 their persons means nothing to him. And I think
6 that a very severe sentence in light of his past
7 and in light of these particular crimes is
8 appropriate. Regardless of what other
9 circumstances there might be, what he did that
10 day was not okay, and it is not acceptable. We
11 have to let Mr. Goetzendanner know that it is not
12 acceptable, and it will not be tolerated, such
13 outrageous conduct. Praying on other people whom
14 he's trying to control and having them end up --
15 you saw the photographs, Judge, you saw the
16 injuries. And not just the physical ones. When
17 I came to understand the emotional and
18 psychological injuries. Based on that, the prior
19 record and the facts of this particular case, and
20 having heard the victim, the Commonwealth makes
21 the following recommendations.

22 On 0378, the first charge of
23 aggravated rape, a sentence of forty to sixty

1 years in MCI Cedar Junction; on 0379, the second
2 count of aggravated rape, a concurrent forty to
3 sixty year sentence at MCI Cedar Junction; on
4 0380, the kidnapping, a nine to ten year sentence
5 at MCI Cedar Junction; on 0381, the assault and
6 battery with a dangerous weapon, the stick that
7 broke when he used it, nine to ten years at MCI
8 Cedar Junction; the assault with a dangerous
9 weapon, the knife, four to five at MCI Cedar
10 Junction, and; the assault and battery, with a
11 finding of guilty, be placed on file. I would
12 suggest that if a sentence of at least that much
13 is imposed on Mr. Goetzendanner, he will get the
14 message, and so will others, that such activity,
15 such violence will not be tolerated. Thank you.

16 MR. CRANE: Your Honor,
17 needless to say, I disagree with the
18 recommendations, and I do so for several reasons.
19 The word is used by Ms. Kendall quite often that
20 Mr. Goetzendanner needs a message, and we need to
21 tell him and tell others that what he did was not
22 okay. Your Honor, that isn't the issue. He
23 knows it's not okay, I know, and so does everyone

1 else. He admitted, through counsel, the
2 commission of a brutal -- and the word I use
3 depraved assault. But with regard to the rest of
4 the charges, it's a very interesting thing that
5 the statute regarding rape involves the state of
6 mind of the victim. Did she consent? Was this
7 against her will? What was her state of mind
8 when this was proposed? It doesn't address the
9 defendant's state of mind at this particular
10 time. Was he ever made aware by the victim that
11 this act was not to take place? I think it's
12 necessary, although it becomes almost irrelevant
13 in the context in which we're standing today.
14 Apparently the jury did not see it that way, and
15 I will not argue with the jury's verdict.

16 For the purpose of sentencing, it is
17 significant to note there never was conveyed by
18 the victim, perhaps justifiably so, to the
19 defendant, a disinclination to engage in sexual
20 acts. And there was nothing to indicate there
21 was any force used in the perpetration of these
22 acts. They were described by the alleged victim
23 at all times as acts of sex. It's nothing

1 abnormal; there's nothing abhorrent about it.
2 This isn't to paint any kind of patine of
3 nobility about the defendant, but perhaps I'm
4 trying to put it in a little perspective
5 externally. He's one of eight children, and on
6 my sister are right in that he has a record of
7 trouble; first, when he was seventeen. He got as
8 far as the tenth grade in school. Although he
9 did achieve a G.E.D. I presume it was in jail.
10 His health was good except for one thing, he has
11 a booze problem. There was some information that
12 is not relevant to the trial, however. At the
13 time he is arrested by the police while on the
14 street, they were looking for him, they were
15 looking for him for this assault that had taken
16 place. His state of mind when he was arrested is
17 that he was stopped because he had with him an
18 open bottle of whisky or gin or something, he was
19 then and there drinking out of. And he tells me
20 he had been drinking through the largest part of
21 the day, or on and off throughout the day.

22 I am informed that he does
23 have, and has had for a number of years, a

1 terrific booze problem. Considering the kind of
2 life he's led, I submit he's found solice in
3 booze, almost the same as the victim did. They
4 are two people that absolutely meshed, and the
5 meshing, of course, led to this explosion. It's
6 a tragedy, but I'm asking the court not to
7 totally give up on this individual. Forty to
8 sixty, even if to run concurrently, would mean
9 he'd be an old man when he got out of jail. I'm
10 told by the district attorney he's facing five
11 years still remaining to be served on a parole
12 violation. I'm asking, Your Honor, that he'd be
13 given, on the major charge, five to seven years
14 in MCI Cedar Junction. Thank you.

15 THE CLERK: Darrien
16 Goetzendanner. On indictment numbers 92-0378 up
17 to and including 92-0383, to which you have been
18 found guilty, hearken to the sentences awarded
19 against you. On indictment no. 92-0378, the
20 court, in consideration of the offense, orders
21 you be punished by confinement in the
22 Massachusetts Correctional Institution Cedar
23 Junction for not less than twenty years, and not

1 more than thirty years. You will receive credit
2 for any time spent in confinement awaiting
3 disposition of this case. This sentence is to be
4 served from and after the expiration of all
5 previous sentences which you have been ordered to
6 serve.

7 On Indictment No. 92-0379 the
8 Court, in consideration of the offense, orders
9 that you be punished by confinement in the
10 Massachusetts Correctional Institution at Cedar
11 Junction for not less than twenty and not more
12 than thirty years. This sentence is to be served
13 concurrently with the sentence imposed on
14 indictment number 92-0378.

15 On Indictment No. 92-0380 and
16 92-0381, the court in consideration of these
17 offenses, orders that you be punished by
18 confinement in the Massachusetts Correctional
19 Institution at Cedar Junction for not less than
20 eight years and not more than ten years. This
21 sentence is to be served concurrently with each
22 other and to be served concurrently with the
23 sentence imposed on Indictment No. 92-0378.

1 On Indictment No. 92-0382, he
2 court in consideration of this offense, order
3 that you be punished by confinement in the
4 Massachusetts Correctional Institution at Cedar
5 Junction for not less than three years and no
6 more than five years. This sentence is to be
7 served concurrently with the sentence on 92-0378.

8 On Indictment Number 92-0383,
9 the court orders this case be placed on file,
10 there being no objection by the defendant.

11 MR. CRANE: The defendant does
12 not object.

13 THE COURT: In addition, the
14 court orders the defendant to pay a fifty dollar
15 victim witness assistance fee.

16 On Indictment Nos. 92-0384 and
17 92-0668, the court having entered a required
18 finding of not guilty, you are hereby discharged
19 and may go without day unless you are held on
20 some other procession. Pursuant to Rule 64, you
21 are advised of your right within ten days to
22 appeal, and a review of your sentence imposed
23 upon you in accordance with Rule 65. You are

1 hereby notified of your right within thirty days
2 to file an appeal from the conviction.

3 Mr. Sheriff, the prisoner at
4 the bar is in your custody under sentence.

5 (Court concluded)
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PHILBIN & ASSOCIATES

1 COMMONWEALTH OF MASSACHUSETTS
2 Berkshire, ss.

3
4 I, BRENDA L. LEVARDI, Court Reporter, do
5 hereby certify that the foregoing testimony is
6 true and accurate, to the best of my knowledge
7 and ability.

8 WITNESS MY HAND, this 29th day of March,
9 1993.

10 Brenda L. LeVardi
11 Brenda L. LeVardi
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23

PHILBIN & ASSOCIATES

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

SUPERIOR COURT
CRIMINAL ACTION
Nos. 92-378-380;
92-382

COMMONWEALTH

HAMPDEN COUNTY
SUPERIOR COURT
FILED

vs.

OCT - 9 2001

DARRIEN GOETZENDANNER

Marie A. Magg
CLERK-MAGISTRATE

**MEMORANDUM OF DECISION AND ORDER ON DEFENDANT'S
MOTION FOR A NEW TRIAL**

The defendant Darrien Goetzendanner now moves this court for a new trial alleging: 1) trial counsel's failure to request limiting instructions on fresh complaint testimony deprived him of effective assistance of counsel; 2) the trial judge erred by not giving limiting instructions on fresh complaint testimony; 3) the Commonwealth's use of a police officer's testimony was improper as it bolstered the credibility of the victim; and 4) the defendant was unlawfully sentenced on the underlying convictions. For the following reasons, the defendant's motion is **DENIED**.

BACKGROUND

In February, 1993, the defendant was tried and convicted by a jury on several counts, including kidnaping, two counts of rape, and assault and battery by means of a stick. The defendant was represented by counsel at his trial. The court sentenced the defendant to serve two concurrently running prison sentences, one being 20 to 30 years, the other being 2 to 3 years. The court stated that the sentences were to be served from and after the expiration of all previous

sentences on which the defendant had been ordered to serve. There is no mention in the court or probation records of any other sentences that had previously been ordered, or what court had ordered them. The same day that the defendant was convicted and sentenced, a parole revocation warrant was issued against the defendant.

Renee Smith, the victim in this case, testified at trial to the following. On the morning of March 9, 1992, she went to the defendant's apartment to remove some clothing that she had left behind on an earlier date. While at the apartment, Ms. Smith and the defendant engaged in sexual intercourse, and then Ms. Smith fell asleep. When Ms. Smith awoke from her nap, she began to gather her clothing. At this time, the defendant flew into a rage and began to beat Ms. Smith. The defendant proceeded to beat Ms. Smith for most of the afternoon. At times, the beatings would cease temporarily as visitors would stop by the apartment. He beat her with his fists and a stick, repeatedly pulled her hair, and held a paring knife to her throat. Because she was afraid of the consequences, Ms. Smith agreed to have sexual intercourse with the defendant two more times that day. The defendant also insisted that the two shower together.

The following evidence was also offered at trial. Sometime during the early evening, the defendant left the apartment. Ms. Smith, after waiting to see if the defendant would return, went to a neighboring apartment occupied by Allan and Beverly Child. Ms. Child stayed with Ms. Smith while Mr. Child called the police. When the police responded to the Childs' apartment, they obtained a statement from Ms. Smith and arranged for an ambulance to transport her to the hospital. At approximately the same time, the defendant was arrested several yards from his apartment.

At the hospital, Ms. Smith was photographed and treated for bruises and abrasions to her

face, eyes, head, left shoulder, ribs, and thighs. The treating physician opined that Ms. Smith's injuries were consistent with her being beaten by a stick and having a flat edge of a knife pressed against her throat.

On this evening, Ms. Smith did not report to the police any claims of rape, kidnapping, or battery. She did, however, make such allegations to Police Detective Gary Danford and the defendant's parole officer on the following day, March 10, 1997. She also reported to the police that she had been involved in a long-standing abusive relationship with the defendant, and that she had resided in several shelters due to the abuse.

The Commonwealth called other witnesses besides Ms. Smith. A Department of Public Safety Chemist testified as to the existence of seminal fluids at the apartment and on Ms. Smith's underwear. The Executive Director of the New York State Office for Prevention of Domestic Abuse testified as to "battered women's" syndrome.¹ The Commonwealth also called Detective Danford to testify as to statements made by Ms. Smith on the morning of March 10, 1992, and on subsequent occasions.¹

Detective Danford testified to the following. Ms. Smith told him that she went to the apartment on the morning of March 9, 1992 to recover her belongings. She told him that after she had a conversation with the defendant, the two engaged in sexual intercourse. She said that after the intercourse, she began to leave the apartment and he beat her with his fists and a stick. She also said that he put a knife to her throat. Ms. Smith recounted how she, out of fear, had

¹ Detective Danford testified that he also took a statement from Ms. Smith in July, 1992, as a result of a letter she had written to the defendant's lawyer whereby she recanted her original statements. In her July 1992 statement, she stated that the statements that inculpated the defendant were the accurate ones.

sexual intercourse with the defendant two more times that afternoon and that the pair showered together. She spoke of visitors to the apartment and that before the defendant left, he threatened to kill her.

After Detective Daniels finished his testimony, the Court discussed with the attorneys the fact that Detective Daniels testified as a fresh complaint witness and that the defendant was entitled to a fresh complaint instruction at this time or during final instructions. The court repeated this suggestion at least once more during the course of the trial. Defense counsel declined fresh complaint instructions stating that, as a matter of trial strategy, he believed that he requested a limiting instruction or objected to the use of the testimony he would not be able to properly explore certain inconsistencies in such testimony.²

On redirect examination, after defense counsel pointed out some inconsistencies between the fresh complaint testimony and Ms. Smith's statements, the Commonwealth elicited the following statement from Detective Danford,

"[a]fter the initial shock or trauma of the incident, [the victims] a lot of times, all clouded. And after the wounds heal, the emotions heal, different things start coming back; it's normal It's normal behavior in a lot of serious trauma cases [to get multiple statements from a victim]. It's almost expected to get two or three statements sometimes out of some people. . . . And a lot of time either the right questions aren't asked or the person doesn't offer the right answers or circumstances."

Detective Danford stated that he made this observation after conducting thousands of interviews

² Defense counsel stated that,

"[m]y purpose, of course, in allowing this to go in, was to get as much detail as I could in order to discredit him [as] completely as I can in cross examination. The issue the big issue with regard to my defense of rape is no complaint was made until [the incident] was investigated by the police officers who did the questioning, and I needed all of this."

of domestic violence victims over a span of twenty-four years.

On May 31, 1994, the defendant filed a motion for a new trial. This motion was denied and the defendant's appeal of this denial was consolidated with the defendant's appeal of his conviction. One of the issues that the defendant raised, by way of supplemental brief, was that the trial court improperly admitted the fresh complaint testimony. The Appeals Court (Ireland J.) held that the issue "lack[ed] merit and [did] not warrant reversal or a new trial."

Commonwealth v. Goetzendanner, 42 Mass. App. Ct. 637, 649 (1997), rev. denied 425 Mass. 1105 (1997).

The defendant now brings his second motion for a new trial.³ The defendant argues that: 1) trial counsel's failure to request limiting instruction on fresh complaint testimony deprived him of effective assistance of counsel; 2) the trial judge erred by not giving limiting instruction on fresh complaint testimony; 3) the Commonwealth's use of the police officer's testimony was improper as it bolstered the credibility of the victim; and 4) the defendant was unlawfully sentenced on the underlying convictions.

DISCUSSION

Here, the defendant has already brought one motion for a new trial under Mass. R. Criminal P. 30, and this court does not see any reason why he should be allowed to bring yet another such motion.

"All grounds for relief claimed by a defendant under [Rule 30 Motion for New Trial] shall be raised by the defendant in his original or amended motion. Any grounds not so raised are waived unless the judge in his discretion permits them to be raised in a subsequent motion, or unless such grounds could not reasonably have been raised in the

³ In support of his motion for a new trial, the defendant has submitted both a memorandum of law, and a "Supplemental Argument."

original or amended motion. Under this rule, a defendant must assert all reasonably available grounds for post-conviction relief in his first rule 30 motion, or those claims are lost This waiver rule applies equally to constitutional claims which could have been raised, but were not raised, in the defendant's original motion."

Commonwealth v. Deeran, 397 Mass. 136, 138-139 (1986), quoting Mass. R. Crim. P. 30(c)(2).

This court does not find any reason why the defendant is entitled to bring another motion for a new trial. He had the opportunity to raise all of his issues by means of his original motion, his supplement to the original motion, and his appeal of his conviction. In fact, in this present motion, he is raising issues regarding fresh complaint testimony that are similar, if not identical, to issues that he raised in original new trial motion. This court, therefore, finds that the defendant has waived all of the arguments raised by this second motion for a new trial, and therefore, this motion is denied.

Assuming, arguendo, that the defendant did not waive the arguments he raises in this second new trial motion, these arguments must fail nonetheless.

Fresh Complaint Testimony and Limiting Instructions

The Appeals Court has already determined that the argument that the defendant makes with regard to fresh complaint testimony "lack[ed] merit and [did] not warrant reversal or a new trial." Commonwealth v. Goetzendanner, 42 Mass. App. Ct. 637, 649 (1997). Moreover, this court finds that defense counsel was simply exercising trial strategy in not objecting to, or requesting limiting instructions on, fresh complaint testimony. This court also finds that while the judge's failure to provide fresh complaint instructions may have been an error, this possible error does not warrant a reversal or a new trial. The fresh complaint testimony did not fill in the gaps in the Commonwealth's case, nor did it add anything or provide unnecessary graphic

details. See Commonwealth v. Fanara, 47 Mass. App. Ct. 560, 566-567 (1999).

Opinion Testimony of Detective Danford

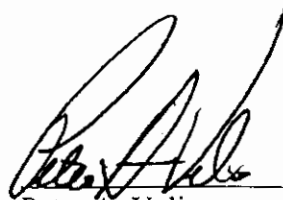
The defendant argues that Detective Danford improperly vouched for the credibility of Ms. Smith by testifying that it was his opinion that most victims of domestic abuse do not provide details in their first statement to the police. Detective Danford, however, only gave the opinion after the defense counsel's cross-examination elicited inconsistencies. There was also little danger that a jury would afford Detective Danford's testimony any special consideration that of an expert witness, or would view the testimony as an opinion of the victim's credibility. See Commonwealth v. Richardson, 423 Mass. 180, 185 (1996).

Unlawful Sentences

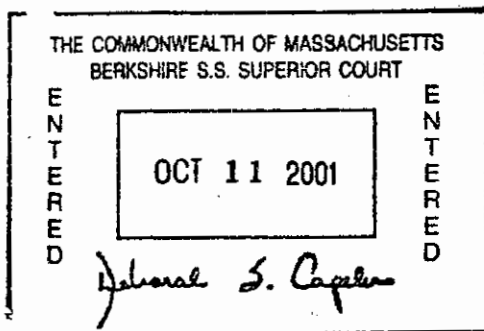
Here, the defendant was ordered by the court to serve his concurrent sentences after expiration of any sentences that he was currently serving. At that time, the defendant was not serving any other sentences, and the concurrent sentences began to run. Also at that time, a parole revocation warrant was issued against the defendant. Contrary to the defendant's argument, this practice is not in violation of his constitutional rights, and the sentences, including a sentence imposed on the parole violation charge, is lawful. The defendant, therefore, will not commence serving his parole violation sentence until the expiration of the concurrent sentences he is presently serving.

ORDER

For the above reasons, it is **ORDERED** that the defendant's motion for a new trial be **DENIED**.


Peter A. Velis
Justice of the Superior Court

DATED: *October 9,*
August, 2001



mitt C. Ry

The Commonwealth of Massachusetts

DEPARTMENT OF CORRECTION



CERTIFICATE OF DISCHARGE

Know all men by these presents:

It having been made to appear to the Commissioner of Correction that

Darrin Goetzendanner

No. **C-49446**

a prisoner sentenced to **MCI Concord**

is entitled to have the term of his imprisonment reduced by a deduction from the maximum term of said sentence or sentences for good behavior.

Now, Therefore, in accordance with the law so made and provided in Chapter 127 of the General Laws (Title 1A, Chapter 127, Section 26B, Ed.) and Acts in amendment thereto it is ordered by the Commissioner of Correction that the said prisoner be, and is hereby discharged from further imprisonment on the

First

day

February

1997

[Signature]
Commissioner of Correction:

Commissioner of Correction:

The above-named prisoner was discharged from imprisonment in accordance with the above order of the Commissioner of Correction on this

First

day of

February

1997

[Signature]
Superintendent

920379 BERKSHIRE S/C MITTIMUS, RAPE 20-30 YRS. F & A SNS ISSUED 2-5-93, (#920378 20-30 YRS. F & A CC; 920380, 381, 382 8-10 YRS. F & A CC). REMAIN ON F & A SENTENCES.

<u>Name</u> GOETZENDANNER, Darrin		<u>Number</u> C-49446		<u>Parole Officer, Region/District</u> /B//Fahhett/1-6/ McCarthy 1-5	
<u>DOB</u> 1/13/65 <u>SENTENCED</u> 2/18/83	<u>REL</u> 3/1/85 <u>EFFECTIVE</u> 4/21/82	<u>PDD</u>	<u>MAX</u> 4/9/2002 <u>OFFENSE</u> Armed Asslt. w/i Murder Armed Asslt. w/i Rob. Consp. to comm. A.R. A&B b/m D.W. Carry firearm w/o lawful auth. in M.V.	<u>SUPERVISION LEVEL</u> MAX() MOD() MIN() ADM() 20 yrs. 20 yrs. 20 yrs. 10 yrs. 5 yrs.	

VOTE/SPEC.COND: Mand. Mental Hlth. Couns.

HOME: 23 Worcester St. Boston Apt. #7

WORK: ABC Plastic Co. 119 Braintree St. Allston 254-4000 (machinist)

-1-

3-1-85	M	Message at office at 4:10 p.m. that subject called and was just released from THP. He was told to call P.O. on 3/4/85. BF/ml
3-4-85	TC	Subject called P.O. at office at 3 p.m. from work. He was paroled on 3/1/85. P.O. to see subject tomorrow. BF/ml
3-5-85	RN	Initial assessment indicates MAXIMUM SUPERVISION. BF/ml
3-5-85	V	P.O. saw subject at Shawmut Ave. and Worcester St. at 6:30 p.m. Reviewed parole rules, special condition, grievance procedure, emergency number and supervision plan. He is attending counseling and was told to have progress reports sent to P.O. Subject has been working for A&B Plastics in Braintree for about 13 months and expects a pay raise soon. Will notify of any changes. BF ml
SUPERVISION TRANSFERRED TO P.O. JAS. MC CARTHY 4/1/85		
4-16-85	C	P.O. met with subject's cousin, John Midnight at res. Stated subject not home from work. May be in counseling. Home tel #424-1722. P.O. requested subject call office. JMcC/ml
4-18-85	V	P.O. met with subject at res. Discussed employment, family LTA and parole conditions. Subject continues to work 7:30 p.m. at \$5.25 hr. Family resides at [REDACTED]. Cousin, Jos Silcott resides at [REDACTED]. He attends counseling at Family Services, 34 1/2 Beacon St. [REDACTED]. Counselor is Patrick Myers. His girlfriend is Charlotte Henderson of Tremont St. Subject stated no problems. P.O. referred him to BERF for rent subsidy for new apartment. JMcC/ml
5-1-85	TC	Subject moved to 9 CORTEZ ST. #5. JMcC/ml
5-1-85	TC	Family Service Inc., left message for Patrick Myers. JMcC/ml
5-13-85	N	P.O. at subject's res. No contact. JMcC/ml
5-21-85	V	P.O. met with subject at new residence, [REDACTED]. Discusses employment, family and LTA. P.O. saw pay stub. Discussed counseling. Subject stated no problems. JMcC/ml

- over -

6-17-85 V P.O. met with subject at residence. Discussed employment, family, and LTA. P.O. signed pay stubs, referred him to Mass. Rehab. for vocational assistance. Subject stated "no problems". JMcC/ml

7-15-85 NC P.O. at subject's res. this eve. No contact. JMcC/ml

7-16-85 NC P.O. at subject's res. this eve. No contact. JMcC/ml

8-5-85 V P.O. met with subject at res. Discussed employment, family and LTA. Stated has met with Mr. Steinberg at family services ctr. but is unable to meet fee. May transfer to Project Place. Also, due in court, Springfield, for non-support hearing, now pays \$5/week. P.O. saw pay stub dated 7/1, subj. has no phone. Stated still dates "Sheih", nutritionist at Brigham Women's Hospital. Subject stated "no problems". JMcC/ml

9-10-85 V P.O. met with subject at residence this evening. Discussed employment, family, LTA and counseling. P.O. saw pay stub dated 9-04. Subject stated has to return to court 11-06 for child support payments. P.O. again referred subject to Mass. Rehab for career counseling. JMcC/ma

[REDACTED]

10-7-85 NC P.O. at subject's residence this evening. No contact. Door was smashed open and room ransacked. JMcC/ma

10-8-85 TC P.O. left message for subject at his job. JMcC/ma

10-9-85 TC With subject. Moved to [REDACTED] with [REDACTED]. This is a temporary situation. Subject stated "No problems" [REDACTED] JMcC/ma

10-9-85 V P.O. met with subject on Columbus Avenue this evening. Discussed new temporary residence and his search for apartment. P.O. discussed parole conditions. Subject stated he understood no problems with employment. JMcC/ma

10-23-85 RN MAXIMUM SUPERVISION. JMcC/ml

10-30-85 V P.O. met with subject on Columbus Avenue this evening. Discussed employment, family and LTA. Subject stated "No changes", still looking for an apartment. P.O. discussed transfer of supervision to Region Two. JMcC/ma

11-07-85 TR Transfer request to Region Two. JMcC/ma

12-4-85 T Received transfer request from P.O. Jackson who has assumed supervision of subject eff: 12/3/85. All material sent this date. JMcC/ml

5-07-86 T P.O. received transfer request from P.O. Morris. DJ/ma

5-13-86 TC Subject called P.O. A meeting was set up for tomorrow evening. DJ/ma

5-14-86 V P.O. met with subject at his home. He lives with his girlfriend at [REDACTED]. He's working at ABC PLASTIC CO. in ALLSTON. He attends counselling at Family Services. DJ/ma

5-20-86 TC Subject called P.O. to check in. DJ/ma

(See page two)

<u>Name</u> -GOETZENDANNER, Darrin		<u>Number</u> C-49446		<u>Parole Officer, Union/District</u> P.O. Jackson 2-4	
<u>DOB</u> 1/13/65	<u>REL</u> 3/1/85	<u>PDD</u>	<u>MAX</u> 4/9/2002	<u>SUPERVISION LEVEL</u>	
<u>SENTENCED</u> 2/18/83	<u>EFFECTIVE</u> 4/21/82	<u>OFFENSE</u>		<u>MAX() MOD()</u>	<u>ADM()</u>
		Armed Asslt. w/int Murder		20 Yrs.	
		Armed Asslt. w/int Rob		20 Yrs.	cc
		Consp. to comm Armed Robbery		20 Yrs.	cc
		A&B b.m. D.W.		10 Yrs.	cc
		Carry firearm w/o lawful auth in M.V.		5 Yrs.	cc

VOTE/SPEC.COND: Mandatory Mental Health Counseling

HOME: w/girlfriend Sheila Wilson 65-67 Westland Ave., 1st Fl., Room 103, Boston, Mass
~~W/Emily Hayes 354 Walnut Ave., #1, Roxbury, Mass (#427-7072)~~

WORK: ABC Plastic Co. 119 Braintree Street, Allston (254-4000) machinist

		-1A-
	M	P.O. JACKSON ASSUMES SUPERVISION OF SUBJECT THIS DATE.
12/3/85	RP	Subject reported this date subject reports work remains the same. Also states he has not attended Counseling due to work no time, subject advised he had to follow stipulation by the Board and that PO would await his choice of where he would receive his therapy. No problems reported and no new arrests reported. PJ/vh
1/29/86	NC	PO at above address this date PO left message for subject to report after work Thursday 1/30/86. PJ/vh
1/30/86	RP	Subject reported this date and states he is looking for new apartment that he is having problems with his girlfriend she doesn't want him there because of her section 8 status, subject submitted updated pay receipts, subject also reports he had an evaluation done and was told he did not need counseling subject to go back to counseling and have letter mailed to PO stating same, Subject to contact PO once he has found new home. No new arrests reported. PJ/vh
2/20/86	RP	Subject reported this date subject reports he is still seeking an apartment states he has to move by end of May. Also states because situation has been upsetting at his home, he was commuting from his mother's home in Springfield to Boston, but couldn't take the ride. Subject claims he does not want to move back home because that's where he got in trouble. Subject to contact PO, if he does not have a place to live. Presently back home with Shirley on Walnut Ave. PJ/vh
3/25/86	TC	Subject to PO at office not available that day. PJ/vh
4/3/86	TC	Subject to PO at office not available that day. PJ/vh
4/23/86	TR	PO Kevin Morris assumes supervision this date. KM/vh
4/24/86	TC	Subject called office. Subject told to report to Regional office on Thursday 5/1/86 and see PO Morris. KM/vh

5/1/86	RP	Subject reported this date. Home and work remain the same. Subject had most recent pay stub copy made for files. Subject states that within the week he will be moving to [REDACTED]. Subject states he will call PO when he has completed the move. PO explains subject will have a new regional office and new PO subject understands. KM/vh
5/7/86	TC	From subject. Subject states he is now living at [REDACTED]. PO states subject will be transferred to Region I. KM/vh
5/7/86	TR	Transfer request to Region I. KM/vh
5/19/86	TR	Transfer Request accepted by P.O. Joyce, Region 1-2 this date. All pertinent materials forwarded to Region 1 this date. KM/ep

<u>Name</u>		<u>Number</u>	<u>Parole Officer, Reg. / District</u>		
GOETZENDANNER, Darrin		C-49446	Joyce 1-2		
<u>DOB</u>	<u>REL</u>	<u>PDD</u>	<u>MAX /</u>	<u>SUPERVISION LEVEL</u>	
<u>SENTENCED</u>	<u>EFFECTIVE</u>	<u>OFFENSE</u>		<u>MAX() MOD() MIN()</u>	<u>ADM()</u>
1-18-83	4-21-82	Armed Asslt. w/int murder Armed Asslt. w/int robbery Consp. to commit A.R. A&B b/m/d/w Carry. F/A w/o lawful auth. in M/V		20 years 20 yrs c 20 yrs c 10 yrs c 5 yrs c	

NOTE/SPEC.COND: Mandatory mental health counseling

HOME: 23 Worcester St., Apt. 7, Boston

WORK: Cole-Hersee, Old Colony Ave., So. Boston

-2-

-12-86	TC	Subject called P.O. He lost his job, but he has some job leads for now. He's having trouble with Family Services. He has no money for sessions. DJ/ma
-18-86	TC	Subject called P.O. to check in. DJ/ma
-25-85	V	P.O. met with subject on Westland Ave. He's still out of work, but he's collecting unemployment. He said the people at Family Services told him not to worry, they'll cover his not coming to counselling lately. DJ/ma
-24-86	NC	P.O. to subject's home - no contact. DJ/ma
-31-86	V	P.O. met with subject outside of Coolidge II. He has a job starting next week. He'll call P.O. with the address. He looked good and claimed to be doing fine. DJ/ma
-20-86	NC	P.O. to subject's home - no contact. DJ/ma
9-17-86	C	P.O. to subject's house 4:00 P.M. and met with his girlfriend. She said he's working and won't be home until about 7:00 P.M. She'll tell him to call P.O. DJ/ma
10-8-86	V	P.O. met with subject at his home. Subject left the job at Mass. General Hospital. He's now at SEARS ROEBUCK on BROAD KLINE AVE 12:30 P.M. - 9:00 P.M. He showed P.O. his last pay stub from MGH. 9-27-86-Net \$82.36 (17 hours) To date \$1571. He has not gotten back into counselling. He's having problems finding his counsellor there. DJ/ma
11-20-86	NC	P.O. to subject's home - 4:00 P.M. No contact. P.O. came by the house again at 5:45 - no answer. DJ/ma

11-20-86 NC P.O. to subject's home - no contact 6:00 P.M. DJ/ma

12-01-86 SI P.O. with BPD Area A Dets. Ross & Spellman and made them aware subject is in the area. DJ/ma

12-10-86 V P.O. met with subject at his home. Subject is now working at COLE-HERSEE, OLD COLONY AVE., SOUTH BOSTON 8:00 A.M. - 4:45 P.M. at \$6/81/hr. He went to counselling at Family Services last month. He had two sessions with Ms. Jenna Vott. She's trying to work out a way to have subject's Blue Cross pay for the counselling. Subject will have her call P.O. DJ/ma

1-15-87 V P.O. met with subject at his home 7:30 P.M. Subject's girlfriend was also present. Subject is considering getting married. He's still working at COLE HERSEE, but there's talk of a lay off as close as tomorrow. Subject said he got a letter from Family Services Counselling cancelling his counselling. P.O. advised the that he call Family Counselling and get back into counselling. DJ/ma

2-19-87 NC P.O. to subject's home at 6:55 p.m. No contact. P.O. left a business card under the door. DJ/ml

3-26-87 NC P.O. to subject's home - 4:00 P.M. No contact. DJ/ma

4-15-87 NC P.O. to subject's home 4:00 P.M. No contact. DJ/ma

5-04-87 NC P.O. went to subject's home on two occasions 3:30 and 4:30 P.M. - no contact. DJ/a

5-06-87 NC P.O. to subject's home 3:45 P.M. No contact. DJ/a

5-13-87 NC P.O. to subject's home 6:10 P.M. No contact. DJ/a

5-27-87 L P.O. mailed a letter to subject at [REDACTED] ordering subject to call P.O. at Region One next Tuesday. DJ/a

6-02-87 TC Subject called P.O. at Region One. He's still working, no problems or changes. He said he usually goes to work out at Pete's Gym on Tremont St. after work. DJ/a

6-03-87 NC P.O. to Pete's Gym on Tremont St. 7:30 P.M. Subject was not in the gym. DJ/a

6-16-87 NC P.O. to Pete's Gym 6:45 P.M. Subject was not in the gym. DJ/a

6-22-87 TC P.O. spoke with Couns. Virginia McCarthy of Family Services [REDACTED] She sees subject every three weeks. He was in 6-4-87 for his last session. He's due back 6-25-87. She is trying to adjust the pay scale according to his salary. She thinks subject is doing well. She'll tell subject to call P.O. after his next session. DJ/a

7-01-87 V P.O. met with subject at his home at 7:00 P.M. Subject's girlfriend was also present. Subject is still working at COLE-HERSEE 8:00AM - 4:45PM. He showed a pay stub 6-25-87 net pay \$196.44. Current earnings to date Gross: \$810.85. Subject is still attending counselling at Family Services w/Virginia McCarthy [REDACTED]. His next session is 7-9-87. Subject is paying \$10/session. He's having trouble financially and this is expensive for him. DJ/a

8-05-87 V P.O. met with subject at his home at [REDACTED] at 7:10 P.M. Subject is living alone as his girlfriend left. He's working at COLE-HERSEE. He showed a pay stub 7-18-87 Net Pay \$173.97. Subject is not due back at Family Counseling until September. He asked about discontinuing counselling as he can not afford it. DJ/a

9-02-87 NC P.O. to subject's home at 3:45 P.M. and 6:40 P.M. - no contact either time. DJ/a
(See page three)

JID # 51110

Name		Number	Parole Officer, Region/District	
GOETZENDANNER, Darrin		C-49446	Joyce 1-2	
DOB	REL	PDD	MAX	SUPERVISION LEVEL
1-13-65	3-1-85	1-26-2001	MAX	MOD() MI() ADM()
<u>SENTENCED</u>	<u>EFFECTIVE</u>	<u>OFFENSE</u>		<u>TERM</u>
2-18-83	4-21-82	Armed Asslt. w/int. murder Armed Asslt. w/int. robbery Consp. to commit A.R. A&B b/m/d/w Carry. F/A w/o lawful auth. in M/V		20 years 20 yrs 20 yrs 10 yrs 5 yrs

VOTE/SPEC.COND: Mandatory mental health counseling

HOME: 65-67 Westland Ave. #103, Boston

WORK: Cole-Hersee, Old Colony Ave., So. Boston

-3-

9-23-87	V	P.O. met with subject and his girlfriend at their apartment, [REDACTED], [REDACTED]. Subject said he hurt his back in work and will be off for a couple of days. He is now working a second job at LASALLE JR. COLLEGE 5PM-10PM cleaning offices. Subject said he's been in touch Family Services and has an appointment to go back. DJ/a
10-14-87	NC	P.O. to subject's home at 5:15PM. No contact. DJ/a
10-21-87	C	P.O. to subject's home at 7:10PM. Subject was not home. P.O. met with subject's girlfriend. She said subject is working and will not be home until 9PM. She said he's doing fine. She'll tell him to call P.O. DJ/a
11-03-87	TC	Subject called P.O. at Region One. He's working two jobs and does not get home until late. DJ/a
11-04-87	NC	P.O. to subject's home at 6:35. There was a sign saying the intercom was broken. DJ/a
12-09-87	V	P.O. met with subject and his girlfriend at their home at [REDACTED], [REDACTED]. Subject is still working at COLE-HERSEE on OLD COLONY AVE., SO. BOSTON. He showed two pay stubs - Net \$233.45; Net \$194.15. Subject has been working part-time at UNICCO SERVICE CO. He quit this job. He showed his last pay stub 12-04-87 Net pay \$51.67-10½ hours. DJ/a
1-13-88	NC	P.O. to subject's home at 6:25PM. No contact. DJ/a
1-28-88	NC	P.O. to subject's home at 11:30AM [REDACTED] no contact. DJ/a
2-02-88	RN	MAXIMUM SUPERVISION. DJ/a
2-07-88	V	P.O. met with subject on Westland Ave at approx. 1:05PM. Subject is still working at COLE-HERSEE in SO. BOSTON and living at [REDACTED]. He inquired about early termination and was told he must [REDACTED].

3-09-88	C	P.O. met with subject's girlfriend at their home at 3:15PM. Subject was not home from work as yet. According to his girlfriend, subject is doing fine. She will tell him that P.O. was by the house. DJ/a
4-06-88	V	P.O. met with subject at his home, [REDACTED] Subject is still working at COLE-HERSEE, no problems. Subject inquired about his PDD and was told it is 1-26-2001. P.O. advised subject that, if subject does five good years on parole, P.O. will consider putting subject in for early termination. 6:15 PM DJ/a
5-04-88	V	P.O. met with subject and his girlfriend at their home [REDACTED] -6:10PM. Subject is still working at COLE-HERSEE. He showed a pay stub 4-21-88 Net \$295.00 DJ/a
6-8-88	NC	P.O. to subject's home at 6 p.m. No answer. DJ/ml
** 8-03-88 **	NC	P.O. to subject's home at 3:50PM - no answer. DJ/a
7-25-88	V	8:25PM. P.O. met with subject on Westland Ave. Subject said he hurt his back last week and is out of work. He has a claim in to Workmen's Compensation. He claims to sue Cole-Hersee. His doctor has given him medication - Moltrin and Flexural. He's still living at [REDACTED] w/his girlfriend. DJ/a
8-06-88	V	P.O. met subject briefly in Quincy Market. Subject was in Lily's with a friend. Subject was fine - no problems. DJ/a
10-12-88	V	3:30PM P.O. met subject on Mass Ave & St. Botolph St. P.O. drove to subject home. Subject said he's still out of work with his injury, collecting Workman's Compensation. Subject said his girlfriend moved out of him. He said he started drinking too much and went to St. Elizabeth's Hospital for a week to straighten himself out. He's doing fine now. Subject is waiting to settle his accident case. He was told to stop drinking. DJ/a
10-17-88	V	P.O. met with subject at his home. Subject said he's doing fine except for his having no money. He's got a doctor's appointment tomorrow, so he's going to BERK to get some subway tokens. Subject said he expects to win his case for \$70,000. DJ/a
11-01-88	TC	Subject called Region One. P.O. was out. Subject left a message that he's having problems with his landlord. DJ/a
11-02-88	NC	P.O. to subject's home - no contact. 3:45PM. DJ/a
11-18-88	V	P.O. met with subject at his home. Subject is going to live with his mother in Springfield for a little while. He still has his apt. on WEST END AVE. His mother lives at [REDACTED]. He'll call P.O. on Tuesday with his plans. DJ/a
12-07-88	TC	Subject called P.O. at Region One. He's living with his mother in Springfield. He inquired about getting some sort of housing when he returns to the area. P.O. advised that Sargent House is available. Subject hopes to return after the holidays. DJ/a
12-08-88	C	P.O. with P.O. Luther. There is a waiting list at Sargent House. P.O. advised subject to call P.O. back at 3PM. DJ/a

RUNNING RECORD

REVOKED
STATUS A-ML - -

NAME (L, F, M, S): [GOETZENDANNER, DARRIN M] ID NUMBER: [839116] PD: [0102 JOYCE NIEL]

HOME: [65-67 WESTLAND AVE 103] BOSTON, MA] TEL: []

WORK: [FULL TIME] [COLE-HERSEE] OLD COLONY AVE SQ. BOSTON, MA , 02127] TEL: []

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C 49446] RELEASED: [03-01-1985] PDD: [01-26-2001] MAX: [] I : []

SPECIAL CONDITIONS: [MMHC]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
5	02-18-1983	04-21-1982	1		05Y	C	*CARR FA MV	
4	02-18-1983	04-21-1982	1		10Y	C	*A&B BM DW	
3	02-18-1983	04-21-1982	1		20Y	C	*CS COM AR	
2	02-18-1983	04-21-1982	1		20Y	C	*ARASLT MURD	
1	02-18-1983	04-21-1982	1		20Y		*ARASLT MURD	

DATE	TYPE	COMMENTS
1-3-89	C	P.O. with P.O. Luther. Beds may be available. P.O. was referred to Dir. LaVerne Saunders. DJ/a
1-3-89	TC	P.O. with LaVerne Saunders. She asked that subject contact her at the program and they will arrange an intake. DJ/a
1-3-89	NC	P.O. was on a transportation trip at 3PM. DJ/a
1-10-89	TC	Subject called P.O. and was referred to LaVerne Saunders DJ/a
1-19-89	RN	MAXIMUM SUPERVISION. DJ/a
1-18-89	TC	P.O. with LaVerne Saunders. Subject is due to enter Sargent House on Monday. He told Ms. Saunders that he would call P.O. about the possibility of subject simply getting a rooming house. If this does not work out, he is to enter Sargent House on Monday. DJ/a

-4-

2-23-85 TC P.O. called [REDACTED], but could not get through DJ/a

2-27-89 L P.O. mailed letter to subject at [REDACTED] ordering subject to contact P.O. via telephone immediately and report in person to Region One on 3-7-89 at 1PM (see file for copy of letter). DJ/a

3-02-89 TC Subject called P.O. at Region One. He'll meet with P.O. next Wednesday at 1PM instead of Tuesday. DJ/a

3-08-89 TC Subject called P.O. He said he has no money and cannot get to Region One. Subject was told to report to Region Five on Friday. DJ/a

3-10-89 RP Subject reported to Region Five and met with P.S. Burdzak. According to P.S., subject had a strong smell of alcohol and admitted to drinking. Subject denied any use of drugs. Urine sample was taken and tested negative for cocaine metabolite, positive for cannabinoids. Subject told P.S. Burdzak that he planned to move back to Boston in the near future. DJ/a

3-29-89 TC P.O. called subject at [REDACTED]. P.O. spoke with subject's niece. She said subject does not live with her, nor does he live with his mother. They do not know where he is living. DJ/a

3-30-89 SI P.O. ran LEAPS check - negative. DJ/a

3-30-89 PVR Violation 1-2 P.O. recommends Provisional Revocation. Subject is whereabouts unknown. DJ/a

4-10-89 PBV Chrissy of W.I.U. with P.O. PBV of 4-5-89-Revoked. DJ/a

4-12-89 IW P.O. mailed Wanted Flyers to Region Five P.S. Burdzak to be circulated to the local police. DJ/a

4-14-89 TC P.S. Burdzak called P.O. They received information on subject and will look for him. DJ/a

4-18-89 TC Subject called P.O. He said Parole Officers and police are looking for him. P.O. advised him of P.V. Warrant and advised him to turn himself in to Region Five. He said he'd turn himself in to Region Five on 4-19-89. Subject would not tell P.O. where he is living. DJ/a

4-20-89 NC Subject did not report to Region Five. DJ/a

4-28-89 TC 9:55AM. P.S. Burdzak of Region Five contacted Region One. (P.O. was on a day off). Region Five staff arrested subject yesterday, 4-27-89. He will be transported to MCI-Concord today on Parole Detainer. DJ/a

5-01-89 TC 9:00AM A Woman identifying herself as Ms. Flanagan, subject's fiancée, called P.O. at Region One. She said subject turned himself in on Friday and wants to be re-released. P.O. advised Ms. Flanagan to have subject call P.O. at Region One. DJ/a

(See page five)

6-07-89 P Return of service of Warrant for Permanent Custody #2889-89 received at
Region One. Date of issue 4-10-89; effective date of return 4-28-89;
date of service 5-11-89. CASE CAN BE CLOSED. DJ/a

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RUNNING RECORD

REVOKED:

STATUS: A-MI.

GOETZENDANNER, DARRIN M ID: [839116] PO: [0102 JOYCE]

HOME: [55-67 WESTLAND AVE 103] BOSTON, MA [] TEL: []

WORK: [FULL TIME] [] COLE-HERSEE OLD COLONY AVE SD. BOSTON, MA, 02127 [] TEL: []

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C 49446] RELEASED: [03-01-1985] FPD: [01-26-2001] MAX: [] LF: []

SPECIAL CONDITIONS: [MHC]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
5	02-18-1983	04-21-1982	1		05Y	C	*CARR FA MV	
4	02-18-1983	04-21-1982	1		10Y	C	*A&B BM OH	
3	02-18-1983	04-21-1982	1		20Y	C	*CS COM AF	
2	02-18-1983	04-21-1982	1		20Y	C	*AR< MURD	
1	02-18-1983	04-21-1982	1		20Y	C	*AR< MURD	

DATE	TYPE	COMMENTS
5-01-89	TC	9:15AM P.O. called P.S. Burzdak. She told P.O. that subject called Region 5 repeatedly on Thursday talking about turning himself in. He was drunk and he would not give an address where he was staying. Finally, he gave the address and they went for him. While en route, subject's family called asking that they hurry and get him out of there. He was told by P.O. Burt to meet with him outside where Burt could see his hands. Subject was not outside. He was in bed. When officers went to put subject in to custody, he put up a violent struggle. He was drunk at the time. Subject was held overnight in Springfield and transported to MCI-Concord on 4-28-89. DJ/a
5-01-89	TC	P.O. with MCI-Concord Parole staff. Preliminary revocation hearing scheduled for May 8, 1989 at 10:00A.M. with Joe Rull. DJ/a
5-01-89	TC	Subject called P.O. at Region One. He admitted to P.O. that he had been drinking. He denied resisting arrest. He also denied having a drinking problem. P.O. told subject of upcoming preliminary revocation hearing. P.O. also told subject that P.O. will not recommend re-parole unless subject is enrolled in an out-patient alcohol program. DJ/a
5-01-89	SPVR	Additional violations 1A-1B. Execute Warrant. Subject should be placed in an in-patient alcohol program before being re-released. DJ/a
5-01-89	M	Form A sent via LEAPS. DJ/a
5-11-89	PBV	Memo from P.O. Luther - PBV 5-11-89 - Execute Warrant. DJ/a

RUNNING RECORD

REVOKED:

STATUS: A-MI

GOETZENDANNER, DARRIN

ID: [839116]

] PO: [0502 BRICK]

HOME: [228 FERNBANK ROAD]

SPRINGFIELD, MA 01129

] TEL: [543-2774]

WORK: [NOT IN WORK FORCE]

] TEL: [- -]

DOB: [01-13-1965]

SSN: [034-56-1866]

LEVEL OF SUPERVISION: [ML 110/89]

MCI: [C-49446]

RELEASED: [10-17-1989]

PDD: [01-19-2001]

MAX: [03-23-2002]

LIF: []

SPECIAL CONDITIONS: [SD, SLA, MAND SUBST ABUSE CNSLG]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
1	02-18-1983	04-21-1982	1		20Y		265 15	ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18	ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522	CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B DAND WP	
5	02-18-1983	04-21-1982	1		5Y	C	269	WEAP VIO GUN LAW (BARTLEY F)

DATE	TYPE	* Out of sequence	COMMENTS	Page #1
10/12/89	TC		Laurie O'Donnell called to inform you subject will be straight parole d on 10/17/ to the same home. He is to report on the day of release to the Regional Office. TB/mh	
10/18/89	TC		Maureen Flanagan called the office at 10:30a.m., she stated that subject was in court in Boston today and will be back later tonight. Please call his girlfriend at [REDACTED]. TB/mh	
10/18/89	TC		Maureen Flanagan called at 12:40p.m., left message for P.O. to call. TB/mh	
10/18/89	RP		Subject reported at 4:00p.m. without parole permit. P.O. told subject to report on Monday with his parole permit prepared to give a urine. TB/mh	
10/23/89	RP		Subject reported at 12:15p.m. wearing a cervical collar. Subject said he was involved in an accident between 2 motor vehicles at intersection of State and Dearborn between 3 and 5 p.m. on Thursday evening. Subject said he was traveling as a passenger in a vehicle operated by his sister's friend Coral (last name unknown). Subject gave P.O. copy of Mercy Hosp. Ambulatory Care slip and C.V.S. printout for Methocarbamol and Tylonel 3. C.V.S. printout listed address as 49 Bryant St. Subject denied living there but said he wanted to move in with his sister, Kathy Goetzendanner, [REDACTED]. P.O. gav subject permission to move there pending investigation by P.O. P.O. told subject that prescription did not prevent P.O. from taking a urine as it would not regist as cocaine. P.O. told subject to get into counseling very quickly. P.O. told subject to RP on 10/30/89. P.O. did ERN subject R=15 N=20, max. sup. P.O. aske subject if he understood SP of home and urine checks and subject said he did. Subject denied illicit drug use. TB/mh	
10/31/89	SI		P.O. ran warrent query -no hits. TB/mh	
10/30/89	RP		Subject reported at 3:30pm and told PO he had been out seeking employment and told PO he wanted to move in with his sister Kathy Goetzendanner, [REDACTED]. PO said that subject could move there pendin HI. PO told subject not to start work until he had medical OK. Subject denied any drug or alcohol use. PO told subject there would be urines in the future. Subject said he was aware of that and was done with pain medication. TB/ms	

(OVER)

11/02/89 C PO went to [REDACTED] and spoke to a five year old girl at the door at 3:30pm. The girl went upstairs and came down with message requesting that PO came back in a couple of days as her mother had just gotten home from hospital after giving birth. PO said he would. TB/ms

12/4/89 TC Subject called at 10:15am and reported that he and Maureen Flanagan moved to 43 FT Pleasant St 3rd fl on Sat. P.O. instructed subject to call or report on 12/6/89. TB/mh

12/6/89 C/L Subject's girlfriend Maureen Flanagan dropped off copy of their lease TB/mh

12/12/89 RP Subject reported in office this day and left copies of medication he is now on due to a car accident. Subject also left copy of pay stub dated 11/8/89 net \$239.83 TB/mh

DOB 1-27-90

02/15/90 V PO visited subject at 8:30pm. Subject showed PO pay stubs reflecting full employment. Subject said he had not been attending counseling. PO instructed subject to begin counseling immediately with Ethos III. TB/ls

03/02/90 TC Subject called at 2:00pm. Moved back in with his sister. TB/ls

03/13/90 TC PO called subject at his job at 11:45pm. Subject told PO that his girlfriend got and apt. at [REDACTED] and had moved there. They still have a relationship and he goes there on weekends. Subject said he moved back to his sisters at [REDACTED] to stay close to work. PO told subject he would submit transfer to PO Bove and told him to call PO Bove on Monday, TB/ls

03/13/90 TR PO submitted TR request to PO Bove. FB/ls

03/23/90 TR Case fromally transferred to PO Bove this day. FB/ls

03/22/90 M PO Bove assumes Supervision this date PO met with subject at his residence
V at 5:30 pm. PO gave subject calling card and office day. Subject showed PO pay stub reflecting full time employment and claims to be attending counseling at the Urban League on Tuesday nights. Subject inquired about possible parole termination. PO informed subject that this request was not possible at the present time. Subject had no further questions. TB/ls

04/30/90 V PO visited subject at this residence at 5:30pm. Subject reports having not gone to work this date due to being ill. PO asked subject for pay stubs for employment verification. Subject reported having put them in his wallet which he left over his girlfriends. PO asked subject if in fact he had really lost his job. Subject strongly denied this and claimed work was going well. Subject denied any use of illegal substances but did report still taking medication for his back. PO advised subject to save perscriptions because PO would soon be taking urines. Subject claimed to be attending counseling. At Ethos III center. PO instructed subject's to keep pay stubs and to keep PO advised. FB/ls

05/02/90 TC PO contacted counselor at Ethos III who reported subject was attending group meetings on Tuesday nights. FB/ls

DOB 5-2-90

RUNNING RECORD

REVOKED:

STATUS: A-ML -

GOETZENDANNER, DARRIN ID: [839116] PO: [0502 BRICK]
 w/ Mother Flanagan 45 Bliss St 3rd Fl W. Suffolk
 HOME: [] TEL: []

WORK: []

TEL: []

DOB: [01-13-1965]

SSN: [034-56-1866]

LEVEL OF SUPERVISION: [ML] 7/90

NCI: [C-49446]

RELEASED: [10-17-1989]

PDD: [01-19-2001]

MAX: [03-23-2002]

L F: []

SPECIAL CONDITIONS: [SD, SLA, MAND SUBST ABUSE CNSLG]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
1	02-18-1983	04-21-1982	1		20Y		265 15	ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18	ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522	CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B DAND WP	
5	02-18-1983	04-21-1982	1		5Y	C	269	WEAP VIO GUN LAW (BARTLEY-FO)

DATE	TYPE	* out of sequence	COMMENTS	Page #2
5/22/90	C		P.O. went to subject's residence at 4:45 p.m. P.O. spoke with subject's sister who reported that subject was not at home but would give subject message to contact P.O. FB/dlk	
5/23/90	TC		Subject called P.O. at regional office. Subject reports no changes or problems. P.O. told subject he would stop by at his house again at the first opportunity. FB/dll	
5/29/90	RP		Subject reported to regional office this date. Subject reports no changes in home or work. Subject showed P.O. pay stubs reflecting full employment. He reported no new arrests or any contact with police. Subject claimed to be attending counseling and denied any drug use. P.O. took urine sample on this date in which subject claimed would be clean. FB/dlk	
6-15-90	SI		Urine sample taken on 5-29-90 tested negative for heroin and cocaine this date. FB/kc	
7-5-90	NC C		PO went to subject's residence at approximately 5:45pm this date. Subject not at home. PO spoke to subject's sister and left message with her to have subject contact PO as soon as possible. FB/kc	
07/11/90	L		Letter with instructions to report to regional office on 7-16-90 mailed to subject's residence this date. FB/lis	
07/17/90	TC		Subject called PO at approximately 4:45pm on 7-16-90. PO questioned subject as to his whereabouts. Subject claims he is living at his approved home and that his aunt never gave him the messages that PO stopped by. PO informed subject that subject has a responsibility to keep in contact with PO subject reported no problems. PO instructed subject to report to regional office on 7-23-90. FB/lis	
07/23/90	RP		Subject reported to regional office. Subject claims no changes in home or work. Subject admitted that he has not been attending counseling on a regular basis. PO sternly lectures subject that he has a responsibility to make every effort to keep in touch with PO and attend counseling subject claimed he understood and denied any drug or alcohol use. Subject reported he would keep PO informed. FB/lis	

07/30/90 RN Reassessment Risk evaluation complete. Risk score-6, Needs score-11. Subjective override complete. Subject to remain on max supervision. FB/lb

08/15/90 V PO met with subject at his residence at 5pm this date. Subject showed PO pay stubs indicating full employment subject also showed PO prescription slips for a severe tooth ache. PO questioned subject about his attendance at counseling. Subject reported attending on a regular basis. PO asked subject to show PO his room. The room subject showed PO contained mainly womens clothes and there was no real evidence that this was subject's room. PO asked subject if he was resideing at this residence. To which subject replied he was subject then asked PO if and when he could be placed on a lower level of supervision. PO informed subject that PO was not willing to remove subject from maximum supervision yet due to the severity of the crime and PO's doubts on his living situation. Subject expressed his displeasure with PO's reasoning. PO reminded subject about the grievance procedure. Subject reported he would consider talking to SPO subject reported no other concerns or problems. FB/lb

09/26/90 V PO met with subject at his residence this date. Subject reports work is fine and that he plans to move officially on 10-1-90 to live with his girlfriend at [REDACTED] with Maureen Flannigan. PO informed subject that PO would submit transfer request and instructed subject to keep in contact with PO until transfer is accepted. FB/lb

10/01/90 TR Transfer request submitted to PO Brick this date. FB/lb

10/01/90 TR Transfer request received by this PO from PO Bove. FB/TB/kc

10/09/90 HI PO visited subject at [REDACTED]. Subject said he rented the apartment with Maureen Flannigan, his girlfriend. PO approves home plan. Subject informed PO that he had lost his job after failing to report to work subsequent to a disagreement with supervisor about wages. Subject said he had not been attending counseling. PO instructed subject to return to counseling and to get a job. PO told subject to report every wednesday until fully employed. PO told subject he was formally transferred to PO Brick. This visit was carried out by PO Brick. FB/TB/kc

10/10/90 TR PO Brick accepts subject this day from PO Bove. TB/kc

BB 10-17-90

10/17/90 TC Subject called at 4:55pm and said he could not make it to the office today because of cramps. PO told subject to report on 10-18-90 between nine and ten a.m. without fail. TB/kc

10/18/90 RP Subject reported at 10am. PO told subject that he was going to take a urine sample and test it, and that if subject lied about the content of the urine, that he would be detained. Subject admitted to drinking and smoking marijuana with Louis Albano, a friend from Boston. Subject said that it was possible that there was cocaine in it, but not to his knowledge. Subject said he discussed his lapse with the drug group at Ethos on tuesday night. PO called Ethos and spoke with Reggie. Reggie confirmed that subject had been the focus of the group on tuesday by discussing his slip. PO told subject that the group had set him free. PO told subject to report on 10-24-90 and to use no more drugs. TB/kc

RUNNING RECORD

REVOKED:

STATUS: A-M - -

GOETZENDANNER, DARRIN

ID: [839116]

PO: [0502 BRICK]

HOME: [223 FERNBANK ROAD]

SPRINGFIELD, MA 01129

TEL: [543-2774]

works 5-10pm

WORK: [~~NOT IN WORK FORCE~~] [WORK: SHOP-Rite, Memorial Drive, West Springfield, MA] TEL: [- -]WORK: ~~International House of Pancakes, Park Street, West Springfield, MA~~

DOB: [01-13-1965]

SSN: [034-56-1866]

LEVEL OF SUPERVISION: [ML]

MCI: [C-49446]

RELEASED: [10-17-1989]

PDD: [01-19-2001]

MAX: [03-23-2002]

I : []

SPECIAL CONDITIONS: [SD, SLA, MAND SUBST ABUSE CNSLG]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
1	02-18-1983	04-21-1982	1		20Y		265 15	ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18	ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522	CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	#A&B DAND WP	
5	02-18-1983	04-21-1982	1		5Y	C	269	WEAP VIOL GUN LAW (BARTLE - IX)

DATE	TYPE	COMMENTS
10-24-90	RP	Subject reported at 2:25pm and informed PO that he had been hired at International House of Pancakes, Park Street, West Springfield, MA. Subject said he would find out his hours on 10-25-90 and inform PO. TB/kc
10-25-90	TC	Subject called and stated he got a job. He starts 10-26-90, 10pm-7pm Friday and Saturday (off Sunday). He will be working at the International House of Pancakes on the corner of Union and Park Streets, West Springfield. He will call back with next week's schedule. TB/kc
11-5-90	V	PO visited subject at his home at 7:30pm. Subject showed PO his pay stub reflecting full-time employment. Subject said he had missed his last counseling session because of a conflict with work. PO told subject to meet his counseling obligation without fail. TB/kc
11-28-90	TC	Subject called at 11am and informed PO that he had started a new job at Shop-Rite Memorial Drive, West Springfield on 11-27-90. Subject said that he quit the job at Bickfords because of inability to get along with his boss. Subject said he is working from 5-10pm. TB/kc
12-17-90	C	PO received list from Jack Elliot that indicated that subject was attending counseling at Ethos III. TB/kc
12-26-90	RP	Subject reported at 1:30pm. Subject reported that he was working about 25 hours a week but that his hours were increasing. Subject said he was attending counseling and having no problems. TB/kc
*12-17-90	SI	PO ran warrant query and BOP. No new cases and no hits. TB/kc
1/18/91	V	PO visited subj. at his home at 1:30pm. Subj. showed PO pay stub from Shopright reflecting full employment. Subj. reported no problems or changes. TB/m
1/18/91	C	PO informed by Jack Elliott that subj. is attending counseling at Ethos III. TB/m
1/19/91	NC	PO went to subj's home at 10:30am, no contact. TB/m

Page 3

02/20/91 CV PO met subject at 5:15pm. Subject told PO that he was working more hours, participating in counseling, and having no problems. Subject was with Maureen Flanagan. TB/ms

03/04/91 RP Subject reported in office at 1:20pm and met with SPO. Subject stated that on Friday 03/01/91 he and the girl he was living with, Maureen Flanagan, of [REDACTED] Springfield, Ill., no phone, got into an argument (verbal) and she called the West Springfield PD. They came and told subject to leave which he did. Subject returned to her home later and the woman on the second floor called the police. They came again and told subject he had to leave and could not return there that evening. Subject stated he left and then was arrested for Disorderly further up the street. Subject was arraigned on Friday morning in Springfield District Court and case continued to 05/21/91. Subject now living with mother Oletha Goetzendanner at [REDACTED] Springfield, Ill. Subject continues to work at Shop Rite in West Springfield almost full time. Subject continues to attend counseling at Ethos III with Reggie. Subject denied use of alcohol and/or drugs. SPO instructed subject to report on Wednesday to see PO Brick. SPO instructed subject to stay away from Ms. Flanagan. Subject feels she has a restraining order. SPO instructed subject to get copy of restraining order and bring in on 03/06/91. Subject asked SPO several times if he would be arrested and returned and SPO told subject that we would get a copy of arrest report and compare with subject's story and then make a decision. DB/TB/ms

03/04/91 SI PO I Casavant picked up (2) reports, 1 of which is arrest report for Disorderly, both from 03/01/91 on subject at West Spfld. PD this day TB/ms

03/04/91 TC/M Subject called at 3:14 and left message for SPO stating that he "forgot when he left girlfriend's house the first time he did go to Ground Round and have a shot". He forgot about that. He will call SPO back. TB/ms

03/04/91 TC/M Subject called at 3:40pm and left message he will call back after 5pm. He stated he was at work right now. TB/ms

03/04/91 TC Subject called at 4:15 and spoke to SPO. Subject admitted to going to Ground Round the night he was arrested and had a shot. Subject is very nervous about being arrested. SPO again instructed subject to report on Wednesday 03/06/91. DB/TB/ms

03/05/91 SI PO went to West Springfield PD and procured copy of 209A Restraining Order against subject with Maureen Flanagan as plaintiff. PO left calling card attached to police copy and requested that PO be notified of any alleged violations or problems. PO requested OIC to inform shift commanders to be aware of posted 5-2 parolee list. TB/ms

03/05/91 C/HI PO went to 11 Rochelle Street, Springfield at 1:30pm and discussed an act of taking parolee into home with subject's sister. She informed PO that subject had been living there for about two weeks. TB/ms

03/05/91 TC/HI Subject called at 3pm and was instructed to report 03/06/91. PO spoke to subject's mother and informed her of implication of taking subject into home. She said she wanted him. TB/ms

CONTINUE ON PAGE #4

RUNNING RECORD

REVOKED:

STATUS: A-MI. - -

GOETZENDANNER, DARRIN ID: [839114] PO: [0502 BRICK]

HOME: [11 Rochelle St., 1st Fl SPRINGFIELD, MA 01129] TEL: [746-9586]

WORK: [Full time] [Shoprite, Memorial Dr., W. Spfld. Hrs. 5-10pm.] TEL: [- -]

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C-49446] RELEASED: [10-17-1989] PDD: [01-19-2001] MAX: [03-23-2002] III: []

SPECIAL CONDITIONS: [SD, SLA, MAND SUBST ABUSE CNSLG]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE	DESCRIPTION
1	02-18-1983	04-21-1982	1		20Y		265 15	ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18	ASLT INTENT TO ROB, ARMEI
3	02-18-1983	04-21-1982	1		20Y	C	265 522	CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B DAND MF	
5	02-18-1983	04-21-1982	1		5Y	C	269	WEAP VIO GUN LAW (BARTLEY F (1))

DATE	TYPE	PAGE #4	COMMENTS
03/06/91	PH		PO scheduled PH with HE Hanna for 03/18/91 at 10:30am at Spfld. Reg. Office. TB/m
03/06/91	RP		Subject reported at 10:15am with his sister and asked if she could sit in on interview. PO said she could if subject gave PO permission to speak freely. Subject did. PO told subject that a PH was scheduled for 10:30am on 03/18/91 and he must without fail report on 03/13/91 to get Form A. PO told subject that any parole violations or allegations of violating 209A would result in detainer being requested and served. Subject said he understood. PO told subject he would not be arrested before or at PH unless there was a new violation. Subject said he understood. TB/m
03/06/91	PVR		PVR submitted this day, PO recommends Final Warning. TB/ms
03/13/91	TC		PO rec'd TC from W.Spfld. PD, informing him that R.O. against subj. had been vacated for lack of prosecution. TB/m
03/13/91	RP/PH		Subj. reported at 3pm. PO delivered Form A in hand after reading in front and rear. Subj. informed that RO was vacated but was told by PO that if he went to 55 Bliss St. W. Spfld. or harassed Maureen Flanagan PO would use detainer. TB/m
03/18/91	PH		Preliminary hearing held this day. RE Hanna recommends: Provisional Revocation TB/m
03/18/91	PBV		Request for Board Vote. TB/m
*03/08/91	RP		Subject reported and left copies of pay stubs for PO. TB/kc
03/29/91	PBV		PO received computer printout indicating that on 3-27-91, the Parole Board voted Provisional Revocation. TB/kc
04/01/91	IW		POs Lucero and Burt went to 11 Rochelle at 3pm and at 4pm. Subject was not there GL/TB/kc
04/01/91	IW		PO went to [REDACTED], no contact. TB/kc
04/01/91	IW		PO went to Shoprite in West Springfield. Subject's next shift is 4-4-91. His paycheck is available 4-5-91. TB/kc

OVER

04/02/91

Case 1:05-cv-11553-JLT Document 11-6 Filed 10/03/2005 Page 20 of 28
PO met subject at the bus station at 10:30am. Subject saw PO and turned himself
CCL in at the front door. Subject said he was on his way to the office. Subject was
arrested on Warrant for Permanent Custody and transported to MCI-Commod. Date
of Warrant: 3-27-91. Effective Date of Return: 4-2-91. Date of Arrest: 4-2-91.
PO closes case. TB/kc

DB 5/17/91

RUNNING RECORD

REVOKED:

STATUS: A-M - -

GOETZENDANNER, DARRIN ID: [839116] PO: [0507 BOVE]

HOME: [11 ROCHELLE STREET] SPRINGFIELD, MA [TEL: [746-9586]]

WORK: [SCHOOL/TRAINING] [SERC] 140 WILBRAHAM AVE SPRINGFIELD, X [TEL: [- -]]

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C-49446] RELEASED: [06-11-1991] PDD: [06-08-01] MAX: [05-12-2002] [: []]

SPECIAL CONDITIONS: [MSAC, H/W/T, SD, SLA]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE
1	02-18-1983	04-21-1982	1		20Y		265 15 ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18 ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522 CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B B/M DW
5	02-18-1983	04-21-1982	1		5Y	C	269 WEAP VIO GUN LAW (BARTLEY-FOX)

DATE	TYPE	*OUT OF SEQUENCE	COMMENTS	PAGE #1
06/11/91	HI		P.O. to subject's proposed home at [REDACTED] P.O. spoke with subject's mother, Oletha Goetzendanner. She claims she resides in this first floor apartment along with her son and daughter. She reports however that her daughter is moving out. She is aware of subject's charges and is aware of parole procedures, due to subject's living with her on a prior parole. P.O. left P.O.'s calling card. Home plan approved. FB/g	
06/11/91	TC		P.O. called in approved home and work plan (SERC) to Boston Correctional Center. Subject to be released on 06/11/91 with instructions to report to Regional Office on 06/12/91. FB/g	
06/12/91	RP		Subject reported to regional office this date. PO went over rules of parole, explained grievance procedure and gave subject PO's calling card with office day and emergency phone number. Subject reports he feels he can find a job on his own fairly quickly. PO told subject that PO would allow him a period of time to accomplish this but if he could not secure employment, he would have to attend the SERC program. PO also instructed subject to set up counseling at Ethos III and to keep PO advised. FB/m	
06/18/91	TC		4:29pm subject called, has a new job Plastic Packaging in West Spfld. Subject starts Wed. 6/19, 11pm-7am, will save paystubs for PO. FB/m	
06/21/91	PDD		PO received parole discharge date of 6/8/01. FB/m	
07/22/91	RP		Subject reported this date on reports having begun pre-employment training this date. Subject reports attending counseling and claims everything at home is fine. PO questioned subject as to if he was seen his former 'friend'. Subject acknowledge that he stays over her house on occasion. PO warned subject that he had problems with this girl before and to watch himself. Subject denied any drinking or drug use on his part and would adhere to PO's warnings. FB/ms	

(OVER)

07/22/91 L Received letter from SERC indicating subject was scheduled to begin PEP this date. FB/ms

08/91/91 NC PO to subject's residence this date during morning hours. PO knocked on subject's door several times, but received no response. FB/ms

08/06/91 NC PO to subject's residence during late afternoon hour. PO knocked on subject's door several times, but received no response. FB/ms

08/22/91 L PO received letter from Spfld. employment resource center indicating subject successfully complete pre-employment training program. FB/m

08/23/91 RP Subject reported to regional office this date. Subject reports no problems or changes. He may have a job at Wendy's Rest. in W. Spfld. He also reports he may move in with his girlfriend in W. Spfld. whom he has had problems with in the past. PO advised subject to think prior to this move and that possibly PO who covers that area could deny transfer request. Subject informed PO he would keep PO informed and denied any drug or alcohol use. FB/m

09/30/91 TC Subject called PO to report he is now working at Friendly's Rest. in Pittsfield and plans to move out there. He reports his new address is with Antennett Flanagan at [REDACTED]. PO informed subject that transfer request would be submitted but to keep in contact with PO. FB/m

0/02/91 TR Transfer request submitted to PO Metallo. FB/m

0/15/91 V/TR PO visited subject at his residence at 11:40am. Subject sleeping. Subject stated he worked last night. Subject didn't have any pay stubs from Wendy's. Subject told to save pay stubs. PO noticed empty bottle of beer in room. Subject states it was his girlfriends, Maureen. Subject states he has no driver's license and walks to get around. Subject is living with his girlfriend Maureen Flanagan, her mother Antonette, Maureen's two children Johanna 12 y and Tabatha 8y along with Maureen's sister Rosalie Beauvois and her son Justin 8 mos. Subject reminded of his special conditions and was given PO's calling card. PO accepts transfer from PO Bove 5-7. PM/m

0/16/91 TR Case materials transferred to PO Metallo. PM/m

1/14/91 V P.O. visited subject at his residence (VA) at 3:00 PM. Subject showed a paystub for 11/03/91 net \$138.60. Subject states he has n't had any substance abuse counseling while in Pittsfield. Subject was referred to BCA. Subject states he works out at the YMCA. PM/g

2/01/91 TC Subject called Parole Office today at 12/01/91 at 1:22 PM. Subject reported a new address of [REDACTED]. Subject stated he would call back on Wednesday to report. PM/g

2/03/91 TC Subject called Parole Office today at 12:46 PM. Subject stated he was living at [REDACTED]. Subject stated that he thinks his ex-girlfriend wants to cause trouble for him because he now has a new girlfriend. Subject stated that the downstairs door is locked all the time and there is no door bell. P.O. may have to contact at Wendy's so P.O. can do home investigation. PM/g

2/12/91 NC P.O. tried to find [REDACTED]. It was Royal Cleaners. PM/g

DOB
3/19/91

RUNNING RECORD

REVOKED:

STATUS: A-ML - -

GOETZENDANNER, BARRIN ID: [839116] PO: [0505 METALLO]

HOME: [9 DALTON AVENUE APT #11] PITTSFIELD, MA] TEL: []

WORK: [FULL TIME] [WENDY'S] EAST STREET PITTSFIELD, MA] TEL: [] -]

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C-49446] RELEASED: [06-11-1991] PDD: [06-08-2001] MAX: [05-12-2002] LIFE: []

SPECIAL CONDITIONS: [MSAC, H/W/T, SD, SLA]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE
1	02-18-1983	04-21-1982	1		20Y		265 15 ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18 ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522 CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B B/M DW
5	02-18-1983	04-21-1982	1		5Y	C	269 WEAP VIOL GUN LAW (BARTLEY-FOX)

DATE	TYPE	COMMENTS	PAGE #2
12/20/91	TC	Subject called Parole Office today at 1:40 PM and stated he got fired from his job. He states it was over some ice cream he did not ring up. PM/g	
12/20/91	NC	P.O. went to subject's residence at 2:25 PM. No contact. PM/g	
12/23/91	NC	P.O. went to subject's residence at 10:50 AM. No contact. PM/g	
12/23/91	C	P.O. came out of subject's apartment building and was met by subject's ex-girlfriend, Flanagan, who now lives across the street from subject, [REDACTED]. She states subject has been looking for work and she doesn't know if subject lives with anyone. PM/g	
12/20/91	TC	Subject called Parole Office today at 3:14 PM. Subject stated he lost his job yesterday at Wendy's. He stated he will keep calling P.O. until he gets in touch with him. He reports no other problems and states he is out looking for other work. PM/g	
01/02/92	NC	P.O. went to subject's residence at 12:50 PM. No contact. R. Smith was the other name on subject's mailbox. PM/g	
01/09/92	NC	P.O. went to subject's residence at 11:30 AM. No contact. PM/g	
01/09/92	C	Subject's ex-girlfriend met P.O. outside stating subject is looking for work again. P.O. stated that subject must contact P.O. on Wednesday 01/15/92. PM/g	
11/13/92	TC	Subject called Parole Office today at 9:33AM and stated he still doesn't have a job. He stated he will try to call back later today. Subject stated he has an appointment with Office of Discrimination (Spfld). Secretary advised subject that the Office of Discrimination is in our building on the same floor and he can stop by to see P.O. then. Subject stated he would and would call P.O. on Wednesday. PM/g	

01/16/92 V P.O. went to subject's residence at 10:30 AM (VA). Subject came cu from his ex-girlfriend Maureen's apartment across the street. Subejt states he might move back in with Maureen because of money problems. Subject states he left Maureen's residence because he didn't get along with her family. Subject presently living with Renee Smith who is working for GE. Subject states she has been paying for rent. Subject explained why he got fired at Burger King. Subject blamed it on another perso and nothing happened to him. Subject states he has contacted the Depart ent of Discrimination. Subject states he is taking delatin and showed a prescription from Dr. Chowdbury. Subject states he might have epile sy. P.O. stated he is not pleased with subject 's communications with P. Subject reminded that P.O.'s office day is Wednesday. PM/g

02/19/92 TC Subject called at 9:50 AM stating no change in his residence other than he lives by himself. Subject states his girlfriend Maureen's phone number is [REDACTED]. Subejct states he sees Dr. Nelson at the Neighborhood Health Clinic. Subject states he is now on General Relief.

02/24/92 TC Subejct called Parole Office today at 11:07 AM. Subject reports that he is living in the same building but in apartment #7A. PM/g

02/26/92 TC Subject called at 2:10 PM checking to make sure P.O. got his change : apartment to 7A. Subject states no other changes. PM/g

02/28/92 V P.O. visited subject at his residence at 9:30 AM.(VA). Subject was i bed with Renee Card Smith. Subject states she has been staying with him on and off. Subject showed P.O. a medical report for him being on Delantin. Subject's next doctor's appointment is 03/19/92. Subject also showed P.O. his welfare statement. Subject gets \$338.70 /mo, plus \$91 in food stamps. Subject states he is staying sober. P.O. found no signs of alcohol use. PM/g

03/10/92 SI P.O. noticed a female with a battered face walk out of the Pittsfield Police Department at 9:30 AM this date. P.O. thought she was in a car accident and inquired within. P.O. informed that subject beat her up and was over a Pittsfield District Court. The officer was unaware th subject was on Parole. PM/g

03/10/92 SI P.O. met with Chief Probation Officer McNeice who stated subject was held on \$1,000 C/S bail, charged with domestic A&B. The court couldn't find a BOP on subject as subject's first name spelling Darrien did no hit. P.O. informed them of subject's parole status and charges. Subject told the court and his court appointed attorney Tom Sherman that he did not have a record. Subject's case is continued until 03/19/92. P.O. called S.P.O. Burzdak and received permission to lodge a detainer behind bail. P.O. spoke with subejct and informed him of the detainer. Subject denied the charge. P.O. informed by the court the victim was Renee Smith who was at the [REDACTED]. P.O. could call the [REDACTED]. A 209A was also issued against the subject for a year. PM/g

03/10/92 TC P.O. at the Pittsfield P.D. at 11:00 AM and contacted [REDACTED] and left a message for Renee to contact P.O. PM/g

CONT. PAGE #3

Handwritten signature and date: 3/19/92

RUNNING RECORD

REVOKED:

STATUS: A-ML - -

GOETZENDANNER, DARRIN ID: [839116] PO: [0505 METALLO]
 #7A
 HOME: [9 DALTON AVENUE APT #11] PITTSFIELD, MA] TEL: []
 WORK: [FULL TIME] [WENDY'S] EAST STREET PITTSFIELD, X] TEL: [] -]
 DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]
 MCI: [C-49446] RELEASED: [06-11-1991] PDD: [06-08-2001] MAX: [05-12-2002] LIFE []
 SPECIAL CONDITIONS: [MSAC, H/W/T, SD, SLA]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE
1	02-18-1983	04-21-1982	1		20Y		265 15 ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18 ASLT INTENT TO ROB, ARMED
3	02-18-1983	04-21-1982	1		20Y	C	265 522 CONSPIRACY
4	02-18-1983	04-21-1982	1		10Y	C	*A&B B/M DW
5	02-18-1983	04-21-1982	1		5Y	C	269 WEAP VIO GUN LAW (BARTLEY-FOX)

DATE	TYPE	COMMENTS	PAGE #3
03/10/92	TC	Renee Smith called P.O. at 11:05 AM and agreed to give P.O. a picture and a statement. P.O. arranged to pick up Renee at [REDACTED] PM/g	
03/10/92	IW	P.O. picked up Renee Smith around 11:20 AM and brought her to the Pittsfield Police Department. Investigator Eaton took a picture of Renee for P.O. Smith started telling P.O. how subject had hit her with a stick and threatened her with a knife. Lt. Lee had Det. Danford take a statement as one was not taken last night. Renee stated subject has been drinking regularly. She has gone to Nel's, Charlie's and Dagwood's drinking with him. Renee stated she has also smoke cocaine with subject. Renee did not see subject drink yesterday, but he had an odor of alcohol on him. Renee states subject's ex-girlfriend, Maureen Flanagan, has a rifle she is holding for subject. As a result of Renee Smith's statement to the Pittsfield Police Department, subject will be summoned on additional charges; Rape (2cts), A&B DW (stick) and Assault DW (knife). A female Police Officer took further pictures of Renee showing bruises on her body caused by being hit by stick which Renee stated broke on her. P.O. took Renee Smith back to the spot he picked her up. P.O. would like to add the pictures don't do justice as to how badly the victim was beaten. PM/g	
03/10/92	IW	Det. Danford, Pittsfield P.D., wrote up a search warrant for subject's residence to find evidence to corroborate the victim's statement. PM/g	
03/10/92	TC	P.O. called Capt. Simonelli, Berkshire County House of Correction, and requested a urine sample from subject. PM/g	
03/10/92	IW	P.O. and Det. Danford met with Pittsfield District Court Clerk Leo Evans around 2:45 PM. Search warrant granted. PM/g	

03/10/92 IW P.O., Det. Danford and Investigator Eaton went to subject's residence, [REDACTED], around 3:15 PM. Officers were met by Ray Frankel, owner of the building. Ray stated subject owes him about \$1,000 in back rent. Investigator Eaton took pictures of subject's room. A broken stick was found in the trash; a knife was found on the table; and a pink negligee and bathrobe were also found in the apartment, bringing credence to the victim's statement. Evidence was taken by Pittsfield Police Department. P.O. picked up several belongings that the victim requested. An empty bottle of Jack Daniels was found in subject's dresser. PM/g

03/10/92 C P.O. contacted the victim through [REDACTED] and brought her belongings at the place P.O. picked her up and dropped her off. PM/g

03/10/92 IW P.O. and Det. Boyington went to [REDACTED] to speak with Maureen Flanagan around 4:30 PM. No contact. P.O. and Det. Boyington went to [REDACTED] and met with Maureen. Maureen stated she is aware of what happened and just picked up subject's keys. Maureen stated she moved back to her parent's a week ago. P.O. stated he had information that she might have a rifle of subject's. Maureen denied knowing anything about a rifle. PM/g

03/10/92 IW V P.O. met subject at the Berkshire County House of Correction at 5:00 PM. P.O. informed that subject would not give a urine sample. Subject wanted to know why P.O. wanted a sample. P.O. stated to see if his urine is dirty. Subject admitted to alcohol use and wasn't sure if he would be dirty for drugs. P.O. stated if he wasn't sure then he must have used drugs. Subject would not make any further comment other than he would give a sample. Subject first denied the assault stating he was with Maureen all day and that Renee showed up to his apartment that way. P.O. stated he just met Maureen and she didn't say she was with subject. Subject then stated P.O. doesn't understand the circumstances involved. Subject informed other charges are pending. P.O. to meet subject at a later date regarding his Preliminary Hearing. Subject left a urine sample for P.O. PM/g

03/11/92 PH Preliminary Hearing scheduled for 03/20/92 at 3:00 PM at the Berkshire County House of Correction with E. Hanna. PM/g

03/12/92 SI Subject's urine sample of 03/10/92 tested positive for cocaine on the Syva Emit Drug Detection System at Doyle Detox. PM/g

03/16/92 SI Det. Danford, Pittsfield P.D., informed P.O. that subject's case goes in front of the Grand Jury on 03/19/92. PM/g

03/16/92 PH V P.O. met with subject at the Berkshire County House of Correction this date. Subject given his Form A in hand. Subject upset with the knowledge of additional charges. P.O. informed subject his urine was dirty for cocaine. Subject denied using cocaine. P.O. had no further discussion with subject. Subject's bail is not \$5,000 c/s. PM/g

03/16/92 TC P.O. discussed subject's case with Peggy O'Neil of Victim's Service Unit. The victim, Renee Smith, [REDACTED]. P.O. referred Peggy to Liz Keegan, Berkshire County D.A. Victim's Unit. PM/g

Warrant 03/31/92

RUNNING RECORD

REVOKED:
STATUS: A-ML

GOETZENDANNER, DARRIN ID: [839116] PO: [0505 METALLO]

HOME: [9 DALTON AVENUE APT #7A] PITTSFIELD, MA TEL: []

WORK: [UNEMPLOYED] TEL: []

DOB: [01-13-1965] SSN: [034-56-1866] LEVEL OF SUPERVISION: [ML]

MCI: [C-49446] RELEASED: [06-11-1991] PDD: [06-08-2001] MAX: [05-12-2002] LIFE []

SPECIAL CONDITIONS: [MSAC, H/W/T, SD, SLA]

NO.	SENTENCE	EFFECTIVE	CT	MIN SENT	MAX SENT	TYPE	STATUTE
1	02-18-1983	04-21-1982	1		20Y		265 15 ASSAULT W/INTENT TO MURDER
2	02-18-1983	04-21-1982	1		20Y	C	265 18 ASLT INTENT TO ROB, ARMED
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5	02-18-1983	04-21-1982	1		5Y	C	269 WEAP VIO GUN LAW (BARTLEY-FOX)

DATE	TYPE	COMMENTS	PAGE #4
03/18/92	TC	P.O. spoke with Liz Keagan who stated she has been in contact with Peggy O'Neil. The victim to be [REDACTED]. PM/g	
03/18/92	PVR	Parole Violation report submitted this date. P.O. recommends Provisional revocation. PM/g	
03/20/92	PH	Preliminary hearing held this day. RE: Hanna recommends: Provisional Revocation 1/m	
03/20/92	PBV	Request for Board Vote. PM/m	
03/24/92	SI	H.E. Hanna informed P.O. that P.O. should be concerned for his welfare if subject is ever released. Subject voiced his dislike for P.O. during his Preliminary Hearing stating P.O. is the reason he has these new charges. PM	
03/25/92	TC	P.O. spoke with Superior Court Probation Officer Berti who stated that subject was indicted 03/20/92 to be arraigned on the 26th or 27th. 1/g	
03/27/92	SI	P.O. received copies of subject's Superior Court Indictments. See file. PM/g	
04/01/92	SPVR	Supplement to Parole Violation Report of 03/18/92 submitted this date for Informational Purposes Only. PM/g	
04/02/92	SI	P.O. informed this date that subject is scheduled for Pre-Trial Conference on 04/16/92. PM/g	
04/15/92	PBV	Parole Board voted Provisional Revocation on 3/31/92. PM/kh	

PD 10-1-92

01/08/93 IW 10:300 AM-P.O. met with Assistant D.A. Ann Kendall to discuss subject's case which she is preparing. No court date has been set as of this date. PM/g

*10/30/92 IW P.O. Met with Deputy Sup. Ed Ziemiak, Berkshire County House of Correction, at 11:30 AM. P.O. Informed that subject has incurred several D-reports and has become a problem inmate. Subject has a new attorney-George Crane. Subject goes to court 11/03/92. Subject's bail might be withdrawn so subject goes on his parole warrant. PM/g

*11/03/92 IW Subject did not go to Superior Court for a bail review. Subject's status to remain the same at this time. PM/g

01/22/93 IW P.O. at the Berkshire County House of Correction and received eight D-Reports regarding subject dating 04/26/92 to 11/18/92. PM/g

01/26/93 C Det. Danford, Pittsfield P.D., informed P.O. that subject's trial is scheduled for 02/01/93. PM/g

02/05/93 M Subject's trial started 02/01/93 in Berkshire Superior Court. Subject was found guilty on 02/05/93 of Aggravated Rape (2cts) 20-30 years; Kidnapping 8-10 years concurrent; A&B DW 8-10 years concurrent; Assault w/DW 3-5 years concurrent; and A&B filed. Sentence is to be served from and after the expiration of all previous sentences which the subject has been ordered to serve. PM/g

02/11/93 SPVR Supplement to Parole Violation Report of 03/18/92 submitted this date for Informational Purposes Only. PM/g

02/11/93 CCL Return of Service received this date: Warrant Issued 03/31/92; Effective Date of Return 03/31/92; Date Returned 02/05/93 MCI-Cedar Junction. P.O. closes case. PM/g

00 2/19/93

discretionary waiver of argument.

1/3/03 Court to set for hearing set for 6/27/03 in appropriate trading session, clerk's office to serve by cert mail. Note to be filed 5 days after receipt but not later than 6/19/03 (Crabtree, J) also

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.
DEDHAM SUPERIOR COURT

03 01010

RECEIVED
CLERK OF
NORFOLK
& FILED
THE COURTS
COUNTY

DARRIEN GOETZENDANNER,
Petitioner,

v.

PETITION FOR A WRIT OF
HABEAS CORPUS

LUIS SPENCER,
Superintendent, MCI-Norfolk, &
MICHAEL TOLEDO,
Deputy Superintendent, MCI-Norfolk,
Respondents

INTRODUCTION

To the Superior Court of Dedham, Commonwealth of Massachusetts, now in session in the County of Norfolk:

PETITION OF PRISONER

The petition of of Darrien Goetzendanner ("Mr. Goetzendanner") respectfully shows:

1. Petitioner is imprisoned and restrained of liberty at Massachusetts Correctional Institute at Norfolk, 2 Clark Street, Norfolk, MA 02056.
2. The officers by whom Petitioner is so imprisoned and restrained are Luis Spencer, Superintendent, MCI-Norfolk; and Michael Toledo, Deputy Superintendent, MCI-Norfolk.
3. The cause of pretense of such restraint by respondents is the following:
 - a. The Petitioner was indicted and arraigned on Indictment Nos. 92-0378 thru 84 and 92-0668 in Berkshire County Superior Court on March 20, 1992, and March 25, 1992, respectively. During the arraignment, bail was set in the amount of five thousand dollars (\$5,000.00) cash or surety. The Defendant never posted that amount. See Docket Sheets attached as EXHIBIT A to Memorandum of Support.

**Commonwealth of Massachusetts
NORFOLK SUPERIOR COURT
Case Summary
Civil Docket**

Goetzendanner v Spencer, Superintendent MCI Norfolk et al

Details for Docket: NOCV2003-01010

Case Information

Docket Number:	NOCV2003-01010	Caption:	Goetzendanner v Spencer, Superintendent MCI Norfolk et al
Filing Date:	06/05/2003	Case Status:	Active
Status Date:	06/05/2003	Session:	Non Jury-CtRm 8
Lead Case:	NA	Case Type:	Standard

Tracking Deadlines

TRK:	X	Discovery:	
Service Date:	09/03/2003	Disposition:	01/01/2004
Rule 15:		Rule 12/19/20:	
Final PTC:	12/02/2003	Rule 56:	
Answer Date:	11/02/2003	Jury Trial:	NO

Case Information

Docket Number:	NOCV2003-01010	Caption:	Goetzendanner v Spencer, Superintendent MCI Norfolk et al
Filing Date:	06/05/2003	Case Status:	Active
Status Date:	06/05/2003	Session:	Non Jury-CtRm 8
Lead Case:	NA	Case Type:	Prisoner Habeas Corpus

Tracking Deadlines

TRK:	X	Discovery:	
Service Date:	09/03/2003	Disposition:	01/01/2004
Rule 15:		Rule 12/19/20:	
Final PTC:	12/02/2003	Rule 56:	
Answer Date:	11/02/2003	Jury Trial:	NO

Parties Involved

3 Parties Involved in Docket: NOCV2003-01010

Party Involved:		Role:	Defendant
Last Name:	Spencer, Superintendent MCI Norfolk	First Name:	Luis
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Party Involved:		Role:	Defendant
Last Name:	Toledo, Deputy Superintendent MCI Norfolk	First Name:	Michael
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Goetzendanner	First Name:	Darrien
Address:	c/o Joe Krowski	Address:	30 Cottage St
City:	Brockton	State:	MA
Zip Code:	02301	Zip Ext:	
Telephone:			

Attorneys Involved

3 Attorneys Involved for Docket: NOCV2003-01010

Attorney Involved:		Firm Name:	MA14
Last Name:	Slade	First Name:	David
Address:	70 Franklin Street	Address:	Suite 600
City:	Boston	State:	MA
Zip Code:	02110	Zip Ext:	1300
Telephone:	617-727-3300	Tel Ext:	164
Fascimile:	617-727-7403	Representing:	Toledo, Deputy Superintendent MCI Norfolk, Michael (Defendant)

Attorney

Involved:		Firm Name:	KROW01
Last Name:	Krowski	First Name:	Joseph F
Address:	30 Cottage Street	Address:	
City:	Brockton	State:	MA
Zip Code:	02301	Zip Ext:	
Telephone:	508-587-3701	Tel Ext:	
Fascimile:	508-588-6035	Representing:	Goetzendanner, Darrien (ain
Attorney Involved:		Firm Name:	MA14
Last Name:	Slade	First Name:	David
Address:	70 Franklin Street	Address:	Suite 600
City:	Boston	State:	MA
Zip Code:	02110	Zip Ext:	1300
Telephone:	617-727-3300	Tel Ext:	164
Fascimile:	617-727-7403	Representing:	Spencer, Superintendent ICI Norfolk, Luis (Defendant)

Calendar Events

11 Calendar Events for Docket: NOCV2003-01010

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	08/05/2003	08:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
2	05/27/2004	08:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
3	06/11/2004	08:00	Status: by session	A	Event held as scheduled
4	06/28/2004	08:00	Status: Clerk Follow UP	A	Event held as scheduled
5	07/23/2004	08:00	Status: Review Annual Fee	A	Event held as scheduled
6	08/30/2004	08:00	Status: Review Annual Fee	A	Event held as scheduled
7	09/20/2004	08:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
8	12/03/2004	08:00	Status: by session	A	Event held as scheduled
9	12/03/2004	09:00	Motion/Hearing: miscellaneous	1	Event held as scheduled
10	12/03/2004	09:00	Motion/Hearing: Judg on Pleading	1	Event held--Under Advis me
11	07/11/2005	15:00	Conf: special call	D	Event canceled not re-scheduled

Full Docket Entries

80 Docket Entries for Docket: NOCV2003-01010

Entry Date:	Paper No:	Docket Entry:
06/05/2003	1	Petition for writ of habeas corpus- Case to enter. Court in its
06/05/2003	1	discretion waives oral argument. Hearing set for June 27,2003 in
06/05/2003	1	appropriate tracking session. Clerks Office to serve by certified
06/05/2003	1	mail. Return to filed 5 days after receipt of service but no later
06/05/2003	1	than 6/19/03(Cratsley, J)(dated;6/3/03) cs
06/05/2003		Origin 1, Type E97, Track X.
06/05/2003	2	Affidavit of indigency and Request for Waiver,
06/05/2003	3	Affidavit supporting petition for writ of habeas corpus
06/05/2003	4	Memorandum supporting Petition for Writ of Habeas Corpus
07/01/2003	5	Return by defts(rec'd6/27/03)
07/01/2003	6	Opposition to Petition for Writ of Habeas Corpus(rec'd6/27/03)
07/01/2003	7	Defendant Michael Toledo,Deputy Superintendent MCI Norfolk's MOTION
07/01/2003	7	to Dismiss (MRCP 12b) Complaint of Darrien Goetzendanner(rec'd6/27/03)
07/01/2003	8	Defendant Luis Spencer, Superintendent MCI Norfolk's MOTION to
07/01/2003	8	extend time for to file memorandum in support of motion to dismiss or
07/01/2003	8	in the alternative for summary judgment (rec'd6/27/03)
07/01/2003	9	Certificate of service(rec'd6/27/03)
07/02/2003		MOTION (P#[8.0)-respondents motion for enlargement of time to file
07/02/2003		memorandum in support of motion to dismiss/summary judgment Motion
07/02/2003		is allowed; time is extended up to and including 7/11/03
07/02/2003		(Chernoff,J.) ns
07/30/2003	10	plff's motion to strike respondents overdue memorandum in support of
07/30/2003	10	motion to dismiss/summary judgment
08/01/2003	11	respondents' second motion to ext. time to file memorandum in
08/01/2003	11	support of motion to dismiss, or, in the alternative, for summary
08/01/2003	11	judgment
08/01/2003	12	affidavit of David Slade
08/04/2003	13	petitioner's opposition to respondents second motion to ext. time to
08/04/2003	13	file memorandum in support of motion to dismiss
08/06/2003		MOTION (P#11.0)-respondents' second motion to ext. time to file
08/06/2003		memorandum in support of motion to dismiss/summary judgment motion
08/06/2003		allowed(Chernoff,J.) (d.8/5/03) ns
08/06/2003	14	defts memorandum in support of motion to dismiss/summary
08/06/2003	14	judgment(rec'd. 8/1/03)
06/01/2004		MOTION (P#7.0) to dismiss, or, in the alternative, for summary
06/01/2004		judgment-motion is dismiss is allowed. Judgment entry, stayed 30
06/01/2004		days. Notice to be sent to Atty. Krowski, if nothing is filed by him
06/01/2004		at that time, Case will go to judgment(Chernoff,J.) ns (d.5/28/04)

06/07/2004		Notice of Annual Civil Litigation Fee mailed to plaintiff's attorney
06/07/2004		Joseph F Krowski on June 07, 2004.
06/11/2004	15	motion to waive litigation fee filed by plff's counsel
06/11/2004	16	Court received correspondence from Atty. Joseph Krowski re: request
06/11/2004	16	for hrg.
06/21/2004	17	Plaintiff Darrien Goetzendanner's MOTION for Judgment on pleadings
06/21/2004	17	(Rule 12)(rec'd 6/16/04)
06/25/2004		re: p.#16.0-correspondence received from the plff-A hearing should be
06/25/2004		scheduled to address: (1) whether the dismissal should be vacated;
06/25/2004		(2) whether the petitioner is presently entitled to a hearing under
06/25/2004		Judge Cratsley's order. Petitioner's counsel shall be prepared to
06/25/2004		argue merits of action on the hearing date in case the Court is
06/25/2004		willing to hear the matter. The Sessions Judge may have this matter
06/25/2004		or send it to this Judge (Chernoff, J.)(d.6/24/04) ns
09/20/2004	18	correspondence received from plff's counsel asking for a hearing
09/20/2004	18	date of October 12, 2004 on the motion for judgment on the
09/20/2004	18	pleadings(rec'd. 9/10/04)
11/02/2004		notice of status hearing for Friday, December 3, 2004 at 9:00A.M sent
11/02/2004		to all parties
11/02/2004	19	habe issued to MCI Norfolk for Darrien Goetzendanner for
11/02/2004	19	Friday, December 3, 2004 at 9:00A.M.
12/03/2004		MOTION (P#16.0) Judge Chernoff has, after reviewing the papers,
12/03/2004		dismissed this habeas petition on the merits. He should hear this
12/03/2004		matter(Gershengorn, Justice) dated 12/3/04----- The Clerk reports
12/03/2004		after speaking to Judge Chernoff-Judge Chernoff will review the
12/03/2004		papers on December 20, 2004 and determine whether he requires a
12/03/2004		hearing or this ruling is to stand without further proceedings .
12/03/2004		Notices mailed December 03, 2004
12/03/2004		copy of said endorsement sent to Judge Chernoff Superior Ct 40
12/03/2004		Thorndike St Cambridge, Ma 02141
04/04/2005	20	Opposition to Petitioner's Request for a hearing(attorney sent copy
04/04/2005	20	to Judge Chernoff)
04/06/2005	21	Reply to Opposition to petitioner's request for hearing
04/13/2005	22	reply to respondents opposition to petitioners request for a hearing
04/29/2005	23	copy of supplement to petitioner's petition for relief pur. to
04/29/2005	23	MGL.c.211 sec3 and renewed motion for hearing-original document filed
04/29/2005	23	in Supreme Judicial Court
04/29/2005	24	Memorandum scheduling an on the record conference (Chernoff, J)
04/29/2005	24	(dated; 4/12/05)
05/18/2005	25	Notice of docket entry received from SJC-denying relief under
05/18/2005	25	c211,s.3 withou prejudice pending the July 11, 2005 status conference.

05/24/2005 26 Courtesy copy-Petition for relief pur to Mass Gen.L ch 211sec3

Commonwealth of Massachusetts

**County of Norfolk
The Superior Court**

Civil Docket **NOCV2003-1110**

RE: Goetzendanner v Spencer, Superintendent MCI Norfolk et al

TO: Joseph F Krowski, Esquire
Krowski Law Offices (Joseph F)
30 Cottage Street
Brockton, MA 02301

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on **06/01/2004**:

*RE: Defendant Michael Toledo, Deputy Superintendent MCI Norfolk's
MOTION to Dismiss (MRCP 12b) Complaint of Darrien
Goetzendanner(rec'd6/27/03)*

is as follows:

**MOTION (P#7.0) to dismiss, or, in the alternative, for summary judgment-motion
is dismiss is allowed. Judgment entry, stayed 30 days. Notice to be sent to Atty
Krowski, if nothing is filed by him at that time, Case will go to
judgment(Chernoff,J.) ns (d.5/28/04)**

Dated at Dedham, Massachusetts this 1st day of June,
2004.

Walter F. Timilty,
Clerk of the Court

BY:

Assistant Clerk

Telephone: (781) 326-1600

Copies mailed 06/01/2004

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MASS. 02301
Tel. (508) 587-3701
Fax (508) 588-6035

Walter Timility, Clerk
Dedham Superior Court
650 High Street
Dedham, MA 02026

Re: Darrien Goetzendanner v. Luis Spencer, et. al.
Civil Docket No: CV2003-01010

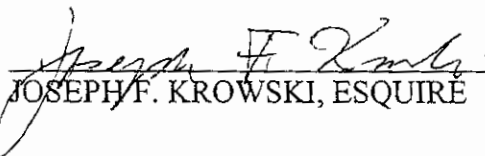
Dear Mr. Timility:

On May 9, 2003 the Petitioner filed a Petition for Habeas Corpus, a supporting affidavit, and a supporting memorandum of law with attached exhibits. The Petition was entered on June 10, 2003. According to Judge Cratsley's Order, a hearing was to be held on June 27, 2003. That hearing did not occur because Judge Cratsley was scheduled to another matter.

On June 26, 2003, the respondent filed a motion to dismiss the petition which was supported by a memorandum filed on July 29, 2003. I filed no opposition because the Respondent's motion to dismiss merely responded to the arguments advanced in my initial supporting memorandum. I anticipated reassignment of a hearing date.

Much to my surprise, the Petition has been denied without a hearing, although a hearing was ordered by the court one year ago. Therefore, I request that the matter be marked for hearing as had been ordered by Judge Cratsley on June 5, 2003.

Very Truly Yours,
LAW OFFICES JOSEPH F. KROWSKI, ESQUIRE


JOSEPH F. KROWSKI, ESQUIRE

cc: David Slade, Esquire

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MASS. 02301
Tel. (508) 687-3701
Fax (508) 688-6035

June 3, 2004

Honorable Paul A. Chernoff
Dedham Superior Court
650 High Street
Dedham, MA 02026

RE: Darrien Goetzendanner v. Luis Spencer, et al
Civil Docket No. CV2003-01010

Dear Judge Chernoff:

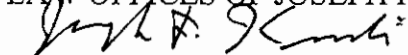
Enclosed please find a copy of a response I filed in hand on today's date June 3, 2004, with the Norfolk County Clerk's Office after receiving the Clerk's Notice on the above number dated June 1, 2004.

I am sending you a copy to avoid you not becoming aware of this response in due course.

Thank you.

Very truly yours,

LAW OFFICES OF JOSEPH F. KROWSKI


JOSEPH F. KROWSKI, ESQUIRE

Encl.

cc: David Slade, Esquire

Commonwealth of Massachusetts

**County of Norfolk
The Superior Court**

Civil Docket **NOCV2003-01110**

RE: Goetzendanner v Spencer, Superintendent MCI Norfolk et al

TO: Joseph F Krowski, Esquire
Krowski Law Offices (Joseph F)
30 Cottage Street
Brockton, MA 02301

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on **06/25/2004**:

RE: Court received correspondence from Atty. Joseph Krowski re request for hrg.

is as follows:

re: p.#16.0-correspondence received from the plff-A hearing should be scheduled to address: (1)whether the dismissal should be vacated; (2) whether the petitioner is presently entitled to a hearing under Judge Cratsley's order. Petitioner's counsel shall be prepared to argue merits of action on the hearing date in case the Court is willing to hear the matter. The Sessions Judge may have this matter or send it to this Judge (Chernoff,J.)(d.6/24/04) ns

Dated at Dedham, Massachusetts this 25th day of June,
2004.

Walter F. Timilty,
Clerk of the Court

BY:

Assistant Clerk

Telephone: (781) 326-1600

Copies mailed 06/25/2004

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MASS. 02301
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Fax (508) 588-6035

August 31, 2004

Walter Timilty, Clerk
Dedham Superior Court
650 High Street
Dedham, MA 02026

Re: Darrien Goetzendanner v. Luis Spencer, et al.
Petition for Writ of Habeas Corpus
Civil Docket No: CV2003-01010

Dear Mr. Timilty:

Pursuant to Judge Chernoff's order of June 25, 2004, kindly mark the petitioner's Rule 12 (Motion for Judgment on the Pleadings for hearing on October 12, 2004, at 9:00 a.m. and ensure that Mr. Goetzendanner, a.k.a. Jah-Rab S.B. Allah, is habed and present on that date.

Because the present case addresses the petitioner's liberty interest as solemnized in the Massachusetts Declaration of Rights and requests immediate release from incarceration in accordance with In re Averett, 404 Mass. 28 (1989), a firm hearing date is necessary.

Thank you.

Very Truly Yours,
LAW OFFICES OF JOSEPH F. KROWSKI

JOSEPH F. KROWSKI, ESQUIRE

cc. David Slade, Asst. Atty General
Darrien Goetzendanner, a.k.a. Jah-Rab S.B. Allah

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MA 01930
Tel. (508) 581-1101
Fax (508) 581-1135

October 21, 2004

Mary K. Hickey
First Assistant Clerk
Dedham Superior Court
650 High Street
Dedham, MA 02026

Re: Goetzendanner v. Luis Spencer, et al.
Docket No: CV2003-01010

Dear Ms. Hickey:

I respectfully request that a status hearing be scheduled on October 29, 2004, regarding the above referenced matter and that a habe issue to ensure Mr. Goetzendanner's presence in court.

Mr. Goetzendanner has a constitutional liberty interest that must be acknowledged promptly. Specifically, Part II, ch. 6, article 7 of the Constitution of the Commonwealth guarantees the enjoyment of the writ of habeas corpus in the most free, cheap, expeditious, and ample manner. In re Averett, 404 Mass. 28, 30 (1989).

If the court cannot provide a prompt October 29th status hearing, I will need to explore alternative means of having this matter heard, as specified in Zatsky v. Zatsky, 36 Mass. App. Ct. 7 (1994), which I know can be avoided.

Very Truly Yours,
LAW OFFICES OF JOSEPH F. KROWSKI


JOSEPH F. KROWSKI, ESQUIRE

cc Darrien Goetzendanner
David Slade, Esquire

m:cri\goetz.ltr.21oct04

Commonwealth of Massachusetts

**County of Norfolk
The Superior Court**

Civil Docket **NOCV2003-00010**

RE: Goetzendanner v Spencer, Superintendent MCI Norfolk et al

TO: Joseph F Krowski, Esquire
Krowski Law Offices (Joseph F)
30 Cottage Street
Brockton, MA 02301

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on **11/02/2004**:

RE:

is as follows:

notice of status hearing for Friday, December 3, 2004 at 9:00A.M sent to all parties

Dated at Dedham, Massachusetts this 2nd day of November,
2004.

Walter F. Timilty,
Clerk of the Courts

BY:

Assistant Clerk

Telephone: (781) 326-1600

Copies mailed 11/02/2004

Commonwealth of Massachusetts

**County of Norfolk
The Superior Court**

Civil Docket **NOCV2003-01010**

RE: Goetzendanner v Spencer, Superintendent MCI Norfolk et al

TO: Joseph F Krowski, Esquire
Krowski Law Offices (Joseph F)
30 Cottage Street
Brockton, MA 02301

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on **12/03/2004**:

*RE: Court received correspondence from Atty. Joseph Krowski re:
request for hrg.*

is as follows:

MOTION (P#16.0) Judge Chernoff has, after reviewing the papers, dismissed this habeas petition on the merits. He should hear this matter(Gershengorn,Justice) dated 12/3/04----- The Clerk reports after speaking to Judge Chernoff-Judge Chernoff will review the papers on December 20,2004 and determine whether it requires a hearing or this ruling is to stand without further proceedings . Notice mailed December 03, 2004

Dated at Dedham, Massachusetts this 3rd day of December, 2004.

Walter F. Timiney,
Clerk of the Courts

BY:

Assistant Clerk

Telephone: (781) 326-1600

Copies mailed 12/03/2004

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MASS. 02301
Tel. (508) 683-7370
Fax (508) 683-6035

December 6, 2004

The Honorable Paul A. Chernoff
c/o Walter F. Timilty, Clerk
Dedham Superior Court
650 High Street
Dedham, MA 02026

Re: Goetzendanner v. Spencer, et al.
Civil Docket NOCV2003-01010

Dear Judge Chernoff:

In regards to the issue of whether or not Mr. Goetzendanner is entitled to an oral argument on the merits of his habeas corpus petition, I respectfully direct your attention to Judge Cratsley's June 3, 2003, order setting the matter for hearing on June 27, 2003. On the scheduled hearing date, Judge Cratsley was on trial in another matter and arguments were not held.

Judge Cratsley's order establishes the "law of the case" regarding Mr. Goetzendanner's entitlement to an oral argument on the merits. See Arizona v. California, 460 U.S. 605, 618 (1983) ("when a court decides upon a rule of law, that decision should continue to govern the same issue in subsequent stages in the same case").

In addition, Mr. Goetzendanner's petition raises a meritorious claim for immediate release based on reasons distinct and apart from his underlying trial. A full oral argument will assist the court in flushing out the finer points of law contained in the parties' memoranda and provide a full record upon which to base a fair decision.

Therefore, an oral argument is in order.

Very Truly Yours,
LAW OFFICES OF JOSEPH F. KROWSKI


JOSEPH F. KROWSKI, ESQUIRE

Encl

cc. Darrien Goetzendanner, a.k.a Jah-Rab S.B. Allah
David Slade, Esquire

Law Offices of
JOSEPH F. KROWSKI, ESQ.

JOSEPH F. KROWSKI, ESQ.
JASON C. HOWARD, ESQ.

30 COTTAGE STREET
BROCKTON, MASS. 02301
Tel. (508) 581-3701
Fax (508) 581-6035

December 13, 2004

Walter F. Timilty, Clerk
Dedham Superior Court
650 High Street
Dedham, MA 02026


Re: Goetzendanner v. Spencer, et al.
Civil Docket NOCV2003-01010

Dear Mr. Timilty:

In accordance with Part 2, Chapter 6, Article 7 of the Massachusetts Constitution and In re Averette, 404 Mass. 28, 31 (1989) a "habeas corpus petitions must be **heard** freely, easily, cheaply, expeditiously, and amply." Its protections are constitutionally based and are separate and distinct from a Rule 30 motion and must not be treated as same.

Therefore, please ensure that Mr. Goetzendanner is habed into court and is present on December 20, 2004, when Judge Chernoff is scheduled to review his petition for habeas corpus.

Very Truly Yours,
LAW OFFICES OF JOSEPH F. KROWSKI


JOSEPH F. KROWSKI, ESQUIRE

cc. David Slade
Darrien Goetzendanner

PRESENT CONTROVERSY

5. On March 26, 1992, Mr. Goetzendanner was arraigned in Berkshire County Superior Court and ordered to be held on five thousand dollar (\$5,000.00) bail cash or surety on indictment numbers 92-8378-84 and 92-0668.²
6. Mr. Goetzendanner never posted bail; he remained incarcerated awaiting trial on the indictments.
7. The indictments for which Mr. Goetzendanner was arraigned arose from incidents occurring while he was at liberty on parole.
8. Based on the new offenses, a parole violation warrant issued.³
9. The Petitioner was not and could not be served with a parole violation warrant while being held in lieu of bail.
10. On February 5, 1993, Petitioner after trial by jury, was sentenced to twenty to thirty (20-30) years "from and after the expiration of all previous sentences which [he had] been ordered to serve."⁴
11. Under Massachusetts law, a sentence for a new crime committed while a person is on parole cannot be imposed and implemented from and after the original parole sentence unless a parole violation warrant had been served upon the person prior to sentencing. Mass. Regs. Code tit. 120 §30316(2)(b)(2).
12. Therefore, by force of law, Petitioner's incarceration was to be structured so that he commenced serving the 20-30 year sentence prior to the remaining balance on his parole sentence.
13. Nevertheless, Petitioner's sentence was unlawfully structured so that he resumed serving the balance of his parole sentence prior to serving his intervening sentence.
14. On February 1, 1997, Petitioner was discharged from the parole sentence.⁵
15. Petitioner is presently serving an unlawful from and after sentence and has been so serving the unlawful sentence since February 1, 1997.

² Docket Sheets contained as Attachment A to Exhibit 2 Petition for Writ of Habeas Corpus

³ Warrant is Attachment B to Exhibit 2

⁴ Attachment D, p.95ln 4-6 to Exhibit 2

⁵ Attachment F to Exhibit 2

PRIOR PROCEEDINGS

16. On May 9, 2003, the Petitioner filed a Writ of Habeas Corpus with supporting Affidavit and Memorandum challenging the legality of his present incarceration.⁶
17. On June 3, 2003, the case was entered and docketed.⁷
18. The Honorable John C. Cratsley, Associate Justice Norfolk Superior Court, ordered a hearing for June 27, 2003, and a return to be filed no later than June 19, 2003.⁸
19. On June 27, 2003, eight (8) days past the court ordered June 19th date, a return⁹ was filed with a motion to dismiss or for summary judgment¹⁰, and a motion for enlargement of time to July 11, 2003, to file a supporting memorandum¹¹.
20. No June 27th hearing was held as ordered by the court.
21. Respondent Norfolk County Superior Court had no available judges to hear the matter.¹²
22. On July 23, 2003, Petitioner filed a motion to strike an overdue memorandum of law which the superintendent of MCI-Norfolk had not filed by the court allowed filing date of July 11, 2003.¹³
23. On July 29, 2003, the superintendent of MCI-Norfolk filed a second motion to enlarge the time for filing a supporting memorandum.¹⁴
24. On July 29, 2003, the superintendent of MCI-Norfolk filed a memorandum in support of the motion to dismiss or in the alternative for summary judgment.¹⁵
25. On July 31, 2003, petitioner filed an opposition to the second motion to enlarge and moved that the second motion for enlargement of time be

⁶ Exhibit 2

⁷ Docket Sheets attached as Exhibit 3

⁸ Attached as Exhibit 4

⁹ Attached as Exhibit 5

¹⁰ Attached as Exhibit 6

¹¹ Attached as Exhibit 7

¹² Affidavit of Counsel attached as Exhibit 8, ¶3

¹³ Attached as Exhibit 9

¹⁴ Attached as Exhibit 10

¹⁵ Attached as Exhibit 11

denied, the opportunity to file a memorandum be waived, the respondents' memorandum be stricken, and the petitioner be immediately released.¹⁶

26. On August 6, 2003, Respondent Norfolk County Superior Court allowed the second motion for enlargement of time to file a memorandum.¹⁷

27. On May 28, 2004, The Honorable Paul A. Chernoff, Associate Justice Norfolk County Superior Court, allowed the superintendent's motion to dismiss Mr. Goetzendanner's petition for writ of habeas corpus without oral arguments contrary to the June 3, 2003, ruling of the Honorable John C. Cratsley ordering a hearing.¹⁸

28. The entry of judgment was stayed thirty (30) days.

29. On June 3, 2004, Petitioner hand delivered a correspondence to the Respondent Norfolk County Superior Court explaining the posture of the case and requesting a hearing as had been ordered on June 5, 2003.¹⁹

30. A courtesy copy of the June 3, 2004, correspondence was sent to the Honorable Paul Chernoff who had allowed the motion dismissing the Petitioner's petition without a hearing.²⁰

31. On June 14, 2004, Petitioner filed a Mass. R. Civ. P. 12 (c) motion for judgment on the pleadings.²¹

32. The motion was accompanied by a request for a prompt hearing date of June 30, 2004.

33. Although the court received the motion, The Norfolk County Superior Court did not mark the motion for hearing.

34. On June 24, 2004, the Norfolk County Superior Court, The Honorable Paul A. Chernoff ordered that a hearing would be scheduled to address whether or not the May 28, 2004, dismissal order should be vacated and whether or not Petitioner was entitled to a hearing on the merits in accordance with The Honorable John C. Cratsley's order of June 3, 2003.²²

35. Because no hearing was scheduled by the court, On August 31, 2004, petitioner wrote to the Respondent Norfolk County Superior Court and

¹⁶ Attached as Exhibit 12

¹⁷ Attached as Exhibit 13

¹⁸ Attached as Exhibit 14

¹⁹ Attached as Exhibit 15

²⁰ Attached as Exhibit 16

²¹ Attached as Exhibit 17

²² Attached as Exhibit 18

requested an October 12, 2004, hearing date and requested that Petitioner be present for the hearing.²³

36. On October 7, 2004, Petitioner had a telephone conversation with the clerk's office of Norfolk County Superior Court. Petitioner was advised that the Petitioner's case would not be marked for hearing on October 12th as requested.²⁴
37. On October 7, 2004, the respondent Norfolk County Superior Court advised that the Petitioner would not be habed into court and that petition for habeas corpus were handled via teleconferencing and the court did not have the necessary equipment in place to facilitate the conference.²⁵
38. On October 12, 2004, Petitioner went to the clerk's office in person to address the court's failure to schedule a hearing with the petitioner physically present in court.²⁶
39. Despite the in person conference, no hearing date was scheduled.
40. On October 21, 2004, the Petitioner wrote to the respondent Norfolk County Superior Court and advised that if a prompt hearing date would not be scheduled for October 29th, Petitioner would explore alternative means of having the matter heard.²⁷
41. On October 26, 2004, Petitioner had a telephone conference with the Norfolk County Superior Court clerk's office. The court advised that the October 29th date was not available but one would be assigned promptly.²⁸
42. The court marked December 3, 2004, as hearing date and the Petitioner would be physically present for the hearing.²⁹
43. On December 3, 2004, a hearing was held in Norfolk Superior Court on the matter before the Honorable Wendie I. Gershengorn.
44. After hearing the Judge ruled that Judge Chernoff was the appropriate Judge to hear the matter. She took no action and referred the matter back to him.³⁰

²³ Attached as Exhibit 19

²⁴ Exhibit 8, ¶20

²⁵ Exhibit 8, ¶21

²⁶ Exhibit 8, ¶23

²⁷ Attached as Exhibit 20

²⁸ Exhibit 8, ¶26

²⁹ Exhibit 21

³⁰ Exhibit 22

45. On December 3, 2004, the clerk's office advised that Judge Chernoff would be sitting in Norfolk Superior Court on December 20, 2004, and would review the papers and determine whether or not he would hold a hearing.
46. On December 6, 2004, the Petitioner wrote to the Honorable Paul A. Chernoff stressing the importance of his petition and requesting a hearing.³¹
47. On December 13, 2004, the Petitioner requested that he be present in court on December 20, 2004, when Judge Chernoff was to review his case.³²
48. Judge Chernoff did not sit in Norfolk County Superior Court on December 20, 2004.
49. The Petitioner was not present in Norfolk County Superior Court on December 20, 2004.
50. To date, Judge Chernoff has yet to hold a hearing as ordered by Judge Cratsley on the merits of Mr. Goetzendanner's petition for a writ of habeas corpus.

PRAYER FOR RELIEF (MANDAMUS)

51. Based on the forgoing, the Petitioner has consistently been denied the opportunity to participate in a meaningful hearing on the merits of his petition for a writ of habeas corpus despite The Honorable John C. Cratsley's June 3, 2003, order.
52. Based on the forgoing, the Norfolk County Superior Court has consistently refused to schedule the Petitioner's matter for any meaningful hearing.
53. The Petitioner filed his Petition for a Writ of Habeas Corpus with the Respondent approximately twenty-two (22) months ago and still has had no meaningful hearing on the merits of his Petition despite a court order requiring a hearing.
54. The twenty-two (22) month delay is a far departure from the proper administration of justice.
55. The twenty-two (22) month delay has caused the Petitioner to suffer irreparable, irremediable, and irreversible harm in that he continues to be

³¹ Exhibit 23

³² Exhibit 24

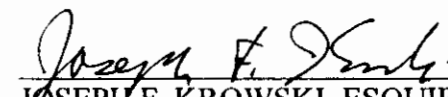
deprived of his liberty by means of unlawful incarceration in violation of state and federal law.

56. The Petitioner's claim addresses substantial, substantive rights including the right to be free from cruel and unusual punishment, the right to be free from a deprivation of liberty without due process of law; and the right to be free from double jeopardy as guaranteed by the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Articles Twelve, Twenty-Four, and Twenty-Six of the Massachusetts Declaration of Rights.
57. If a hearing is not held, the petitioner will continue to be unlawfully deprived of his liberty without state recourse, compelling the Petitioner to seek federal redress consistent with Bartone v. United States, 375 U.S. 52, 54 (1963); Wells v. Marshall, 885 F. Supp. 314, 317 (D. Mass. 1995).

WHEREFORE, the Petitioner prays that this Court, in accordance with its general powers of superintendence pursuant to Mass. Gen. L. ch. 211, §3, issue the following orders:

- a.) An order in the nature of mandamus compelling the Respondent Norfolk County Superior Court to set a firm date for a meaningful hearing on the merit's of Petitioner's petition for a writ of habeas corpus before the Honorable Paul A. Chernoff;
- b.) An order in the nature of mandamus compelling the Respondent Norfolk County Superior Court to take all necessary steps to ensure that the Petitioner will be physically present for the said hearing date.
- c.) Any additional orders in law and/or equity which this court deems appropriate and just.

Petitioner
By his Attorney


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BBO: 280540
(508) 587-3701

Date: March 2, 2005
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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

SUPERIOR COURT
CIVIL NO. 2003-01000

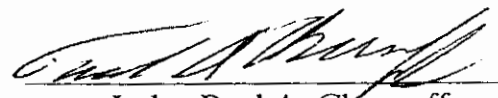
DARRIEN GOETZENDANNER :
: VS. :
: LUIS SPENCER, ET AL :

MEMORANDUM

The Norfolk Superior Court has forwarded an Order from a sessions judge, Gershengorn J., from December 2004 referring the above-identified matter to me. In recent weeks, at least one of the parties has supplemented the record with a memorandum.

Although I will not grant a formal hearing at this time on either a request to vacate the finding of dismissal or a request to consider again the merits of the dispositive motion, I am willing to meet with counsel upon my return to the Norfolk Superior Court in July.

Accordingly, this judge will conduct an on-the-record conference with counsel at the Norfolk Superior Court at 3 p.m. on July 11, 2005. If this date interferes with an attorney's vacation or other court commitment, then counsel should confer with one another and then contact Assistant Clerk Michael Hulak at the Norfolk Superior Court at (781) 326-1600.


Judge Paul A. Chernoff
Lowell Superior Court

Dated: April 12, 2005

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

SUFFOLK, ss

DOCKET NO: SJ-2005-0117

DARRIEN GOETZENDANNER, a.k.a.)
JAH RAB S.B. ALLAH,)
Petitioner)

v.)

LUIS SPENCER, Superintendent, MCI-)
Norfolk; MICHAEL TOLEDO, Deputy)
Superintendent, MCI-Norfolk; & NORFOLK)
COUNTY SUPERIOR COURT)
Respondents)

STATUS REPORT TO THE SINGLE JUSTICE

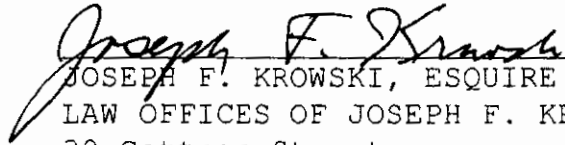
Now comes the Petitioner how hereby states the following regarding the May 16, 2005, Judgment of the Single Justice denying the Petitioner's Petition pursuant to G.L. c. 211, §3 without prejudice pending a July 11, 2005, status conference before the Honorable Judge Chernoff at the Norfolk County Superior Court

1. On April 12, 2005, the Honorable Paul A. Chernoff issued a Memorandum indicating that an on the record status conference would be held on July 11, 2005, regarding the Petitioner's Petition for Habeas Corpus which has been pending for twenty-six (26) months.
2. The status conference was not held this day, July 11, 2005.
3. The clerk referenced is not in this week.

4. Judge Chernoff is not available until August.
5. The above further demonstrates the pattern of inordinate delay and avoidance of the petitioner's meritorious Habeas Corpus Petition.
6. The Superior Court continues to remain unwilling to grant the Petitioner a meaningful opportunity to be heard on his Habeas Corpus Petition in complete violation of the law of this commonwealth which states that "habeas corpus petitions must be **heard** freely, easily, cheaply, expeditiously, and amply..." In Re Averett, 404 Mass. 28, 31 (1989) (emphasis added).
7. Each passing day represents an irreparable unlawful deprivation of the Petitioner's liberty in violation of statutory, regulatory, decisional and constitutional law.

Wherefore, the Petitioner moves the Single Justice to Reconsider the May 16, 2005, order denying his G.L. c.211, §3 petition without prejudice and issue an order in the nature of mandamus directing the Norfolk County Superior Court to conduct forthwith a meaningful hearing on the Petitioner's Habeas Corpus Petition.

Petitioner
By his Attorney


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(508) 587-3701

Date: July 11, 2005
m:cri\goetz.status.singjustice

CERTIFICATE OF SERVICE

I, Joseph F. Krowski, Esquire, hereby certify that I have this 11th day of July, 2005, served a copy of the above Status Report to the Single Justice on David Slade, Esquire, Department of Corrections Legal Division, 70 Franklin Street, Suite 600, Boston, MA 02110; and Cathryn A. Neaves, Assistant Attorney General, Office of the Attorney General, One Ashburton Place, Boston, MA 02108 by first class mail postage prepaid.


JOSEPH F. KROWSKI, ESQUIRE